

AGRIPINO PADRE, FAUSTA PADRE, SILVINA PADRE, AND OCTAVIO PADRE, AND SABAS PAA AND ROSARIO PAA, PETITIONERS, VS. HONORABLE COURT OF APPEALS, HON. ALFREDO P. DE VERA, PRESIDING JU...

G.R. Nos. 84902-03. October 02, 1992

Ponente: MELO, J.

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MELO, J.:

Assailed in the petition for certiorari before Us is the decision of respondent Court of Appeals in Civil Cases No. 08658 and 08659 penned by Justice Celso L. Magsino, concurred in by then Presiding Justice Oscar R. Victoriano and Justice Luis L. Victor, and which set aside the appealed judgment, thus:

"1. Declaring the defendants-appellees entitled to the possession of the parcels of land described in paragraph 2 of both complaints (Civil Cases Nos. 2954-V and 2964-V);

2. Ordering the plaintiff-appellants to vacate the aforesaid parcels of land and restore its possession to the defendants-appellees;

3. Dismissing the claim for damages of the plaintiffs against defendants as well as the claim of damages of the latter against the former in both complaints.

Without pronouncement as to costs."

(pp. 12-13, Decision; pp. 26-27, Rollo.)

Inasmuch as the parties herein do not dispute the factual antecedents of the suits for quieting of title as formulated by respondent Court, We hereby adopt said findings which We quote verbatim hereunder:

"This is an appeal from the decision of the Regional Trial Court, First Judicial Region, Vigan, Ilocos Sur, Branch XX, in Civil Cases Nos. 2954-V and 2964-V, the dispositive portion of which, reads as follows:

'WHEREFORE, IN VIEW OF THE FOREGOING, judgment is hereby rendered:

A). Dismissing the complaint in Civil Cases Nos. 2954 and 2964;

B). Declaring the defend-ants as the absolute owners and are now entitled to the posses-sion of the land in suit described in page 1 above (paragraph 2 in both complaints);

C). Dismissing the claim for damages of the plaintiffs against the defendants, and likewise dismissing the claim for damages of the latter against the former in both complaints; and

D). Without pronounce-ments as to costs.

SO ORDERED'.

The factual antecedents show that plaintiffs in both cases seek to quiet title to two (2) parcels of land described in paragraph 2 of their respective complaint, both situated at Taleb, Bantay, Ilocos Sur, covered by Tax Declaration No. 18719 and Tax Declaration No. 20879-C, respectively.

After summarizing the testimonies of the witnesses as well as the documentary exhibits presented by both parties in the two cases (Civil Case Nos. 2954 and 2964), the lower court made its findings of facts and conclusion, to wit:

'x x x x x x x x

'Let us consider the plain-tiffs' evidence of ownership in Civil Case No. 2954. The land was originally owned by Jose Padre until a time when he gave the land to Fausta Padre (there is no document showing trans-fer) and the latter declared the land for taxation purposes in her name. On December 2, 1966 she sold a portion of the land to Avelino Paranada married to Vicente Viernes. His father, the late Jose Padre, had been in possession of the same up to the time it was given to her. She is also in possession of the disputed property until the years 1973, 1974 and 1975 when Juliana Pacleb Parel began to cut down trees on the land. The plain-tiffs contended that they are in possession of the land but filed this case upon the advise of a PC soldier when he went to the PC Headquarters.

Let us consider the evi-dence of the plaintiffs' ownership in Civil Case No. 2964. The land was originally owned by Calixto Paa when he gave the land to the plaintiffs Sabas Paa (there is no evidence showing the transfer of owner-ship) and the latter declared the land for taxation purposes in his name. He paid the realty estate taxes due the land to evidence possession. The complaint was filed because Juliana Pacleb Parel cut down some trees on the portion of the land in question.

Let us now consider the defendants' evidence of ownership in both civil cases. The disputed parcel of land was formerly owned by the late Silvestre Paa who sold it to Blas Pacleb (there is no deed of transfer or conveyance). Some of the adjoining lots were the properties of Bartola Pero, the deceased grandmother of Juliana Parel, one of the defendants and a portion of it was the land of Roman Pacleb (no document of ownership), the predecessors-in-interest of the defendant Juliana Pacleb Parel. During the cadastral survey, the said parcels of land were consolidated into one parcel of land under one Tax Declaration but with different Lot numbers. Plaintiffs tried to assert their ownership when defendants cut down trees and tried to bulldoze the land subject of controversy sometime in 1968.

The parties marked in evi-dence tax declarations, tax declarations in the names of Fausta Padre and Sabas Paa in Civil Case No. 2954. The plaintiffs also marked in evi-dence tax receipts and certification showing payment of taxes from the office of the Municipal Treasurer of Bantay, Ilocos Sur, as well as the document showing disposition of a por-tion of the land by plaintiff Fausta Padre. The defendants in both cases marked in evidence, the sketch plan showing the whole tract of land of the late Roman Pacleb, Bartola Pero and Blas Pacleb. They also marked in evidence the tax declarations in the names of Roman Pacleb, Juliana Pacleb Parel, Bartola Pero, Santos Pacleb, Lorenzo Pacleb and Blas Pacleb.

Both parties in Civil Cases Nos. 2954 and 2964 also marked in evidence their respective tax receipts showing that they paid the real estate taxes on the land in dispute. And also certifications from the office of the municipal treasurer showing payment of realty taxes.

Tax declarations and tax receipts are mere indicias of the claim of ownership and possession. By themselves they are insufficient to prove ownership and possession in concept of owner (Alzate, et al. vs. Cidro, et al., CA No. 40963-R, April 14, 1970). The parties admitted the identity of the land in dispute that the land is identified as Lots

Nos. 10219; 10214, 10213 and 10212, of the Bantay Cadastre and that it is the same land being applied for a free patent title under application No. I-3-8988 by Fausta Padre and No. I-3-8989 by Sabas Paa.

The defendants in both Civil Cases Nos. 2954 and 2964 are in actual possession of the land in dispute. Being in actual possession under claim of ownership, it is presumed that defendants are the owners (Art. 433, New Civil Code). Plaintiffs assert the affirmative issue that they are the owners and not the defendants. The related rule is that because as plaintiffs, they dispute the presumption of ownership of the defendants, they have the burden of proof of rebutting that presumption. The plaintiffs have the duty of proving their own affirmative allegations. One who asserts, and not one who denies, must prove. The Court finds that plaintiffs in Civil Cases Nos. 2954 and 2964 have not come forward with sufficient evidence to discharge such duty. Plaintiff's evidence in both cases is far from what is considered sufficient.

After carefully considering the evidence adduced by the parties in Civil Cases Nos. 2954 and 2964, the Court finds that the plaintiffs have not established their cause of preponderance of evidence. The Court finds defendants to have been in possession under claim of ownership, publicly, continuously, and uninterruptedly and long before that, the land was in the possession of their grandfather, grandmother and father, under similar circumstances.

The Court denies, however, the claims of defendants for damages, attorney's fees and expenses of litigation. The plaintiffs have the right to litigate and it is not sound public policy to punish a party by making him pay damages, attorney's fees and expenses of litigation for having exercised their right erroneously. And adverse decision does not mean that plaintiffs are in bad faith in filing the complaint and that their complaint is entirely unfounded.'

In this appeal the appellants raise several errors of the lower court, as follows:

I. IN FINDING THAT THE DEFENDANTS (APPELLEES BELOW) ARE IN ACTUAL POSSESSION OF THE LAND IN QUESTION.

II. IN FINDING THAT THE DISPUTED LAND (FORMERLY OWNED BY SILVESTRE PAA [sic]) WAS SOLD TO BLAS PACLEB (PREDECESSOR-IN-INTEREST OF HEREIN APPELLEES), DESPITE THE LACK/ABSENCE OF ANY DOCUMENT INDICATE (SIC) SUCH PURCHASE.

III. IN FINDING THAT THE DISPUTED LAND CLAIMED BY APPEL-LEES AS DECLARED IN TAX DECLARATION NO. 20148-C WERE OWNED BY APPELLEES WHEN IN FACT SUCH TAX DECLARATION IS IN THE NAME OF JAMES PORTE, MARIE ANN PORTE, NAPOLEON PORTE AND ROSEMARIE PORTE, WHICH IS LOCATED AT CABUSLIGAN, BANTAY, ILOCOS SUR AND NOT AT TALEB, BANTAY, ILOCOS SUR AS SHOWN BY A CERTIFICATION ISSUED BY THE PROVINCIAL ASSESSOR.

IV. IN FINDING THAT THE LAND BEING CLAIMED BY APPELLEES IS LOCATED AT TALEB, BANTAY, ILOCOS SUR, WHEN IN TRUTH THE LAND IS LOCATED AT MAGBAUGAN TALEB, ILOCOS SUR, WHICH IS ONE AND ONE HALF (1 1/2) KILOMETERS DISTANCE FROM TALEB PROPER, BANTAY.

V. IN DISREGARDING THE FACT THAT APPELLANTS HAVE FILED TAX DECLARATIONS AND PAID TAXES ON THE LAND SINCE 1952 (JOSE PADRE) UP TO THE PRESENT (FAUSTA PADRE); AND SINCE 1949 (SABAS PAA) UP TO THE PRESENT (ROSARIO PAA) WHILE CONSIDERING THAT APPELLEES UNDER TAX DECLARATION NO. 20148-C ARE OWNERS THEREOF ALTHOUGH SAID TAX DECLARATION IS IN THE NAME OF OTHERS (JAMES PORTE, ET AL.).

VI. IN NOT CONSIDERING OR IN DISREGARDING THE REBUTTAL TESTIMONIES OF LYDIA MADRIAGA AND CLETO PAA WHO UNEQUIVOCABLY TESTIFIED THAT APPELLANTS HAVE BEEN

IN POSSESSION OF THE DISPUTED LAND FROM THE (SIC) IMMEMORIAL WHILE APPELLEES DID NOT PRESENT CLEAR AND CONVINCING EVIDENCE OF THE SO-CALLED POSSESSION.

VII. IN NOT CONSIDERING AS AN ACT OF OWNERSHIP AND DOMINION, THE SALE OF A PORTION OF THE DISPUTED LAND BY JOSE PADRE TO JUANA AND SEVERINO PARANADA.” (pp. 1-6, Decision; pp. 15-20, Rollo.)

Before respondent Court discussed the merits of the appeal, two major propositions, anchored on doctrinal rules, were impressed upon plaintiffs-appellants below in that the authority of the Director of Lands over the disposition of public lands does not necessarily rule out the competencia of the regular courts over possessory actions (Molina vs. de Bacud, 19 SCRA 956, 959; cited at p. 8, Decision; p. 22, Rollo) and that the Regional Trial Court has the power to ascertain who has prior possession of public lands (Espejo vs. Mallate, 120 SCRA 269, 278, among other pertinent cases cited at p. 8, Decision; p. 22, Rollo). Seemingly, these jurisprudential axioms were utilized by respondent Court in considering the complaints for quieting of title instituted at the court of origin as accion publiciana where the query to be resolved deals with the issue of who between the parties has a prior or better right of possession independently of title.

The aspect of possession, the first issue raised in the appellate court by herein petitioners, was resolved on the basis of the greater probative value given by respondent Court to the documentary evidence adduced by defendants-appellees whose tax declaration over the disputed property dates back to 1921 as affirmed on the witness stand by Sixto Corpuz. The conclusion was thus reached that defendants-appellees, private respondents herein, were ahead in occupying the realty in the light of the testimony of Agrifino Padre that his father was in possession of the land only in 1923, and the statement of Emigdio Paranada that Sabas Paa started his possession of the property only in 1936.

Now, on the question of whether the court of original jurisdiction properly appreciated the validity of the sale from Silvestre Paet to Blas Pacleb, even if there was no document to support such purchase, respondent Court observed that such a defect has no legal bearing on the case at bar which is not for the enforcement of a contract of sale, apart from the fact that the statute of frauds is inapplicable to consummated contracts.

Petitioners' third and fourth ascriptions which focused on the identity of the subject lots, likewise did not merit consideration by the Court of Appeals on account of the admission of both parties in this respect that the litigants are referring to the same property.

Respondent Court did not find it necessary to respond to the fifth and sixth assigned errors because of the initial perception in regard to the superior weight of herein private respondents' evidence of prior possession.

Dissatisfied with the pronouncements of respondent Court, the instant petition was resorted to, but We find the same to be devoid of intrinsic worth.

To buttress the idea that respondent Court erred in converting the action below from quieting of title into one for plenaria de posesion and in resolving the conflicting claims of the parties, petitioners submit that it is only the Director of Lands, and not the courts, that can resolve the confluence of rights over the subject lots (p. 4, Memorandum for Petitioners; p. 71, Rollo). This subtle experiment of impugning the jurisdiction or competencia of the original and appellate courts after adverse repercussions are experienced has time and again been repudiated, thus:

“... after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court ...”

(Tijam vs. Sibonghanoy, 23 SCRA 29, 36.)

Then, too, concerning the contention that it is the Director of Lands and not the court which should have ruled on the matter of prior possession, this Court has, as early as 1967 in *Molina vs. de Bacud* (19 SCRA 956), ruled that:

"... the authority given to the Lands Department over the disposition of public lands does not exclude the courts from their jurisdiction over possessory actions, the public character of the land notwithstanding. This is such an action and the fact that on her complaint respondent claimed the lands in ownership did not change the nature of her action. The allegation of ownership should be regarded as a mere surplusage." (pp. 959-960)

This was recently clarified in *National Development Company vs. Hervilla* (151 SCRA 520) and in *Guerrero vs. Amores* (159 SCRA 374) that:

"... the administration and disposition of public lands are committed by law to the Director of Lands primarily, and ultimately, to the Secretary of Agriculture and Natural Resources. The jurisdiction of the Bureau of Lands is confined to the determination of the respective rights of rival claimants to public lands or to cases which involve disposition and alienation of public lands. The jurisdiction of courts in possessory actions involving public lands is limited to the determination of who has the actual physical possession or occupation of the land in question (in forcible entry cases, before Municipal Courts) or, the better right of possession (in accion publiciana, in cases before Courts of First Instance, now Regional Trial Courts.)" (pp. 526-527)

Against these judicial pronouncements, petitioners can offer no concrete and contrary sentiments other than their cold protestations that respondent Court overstepped its authority. It follows, therefore, that the Court of Appeals correctly ordered petitioners' eviction from the premises in view of the factual finding that herein private respondents have the better right of possession.

Neither are We persuaded into accepting petitioners' contention that the appellate Court seriously erred in converting the action from quieting of title into accion publiciana, because in order to afford complete relief to the parties, the court may determine incidentally the ownership, or the status of the legal title to the property, or the right to the possession thereof (*Gore vs. Dickinson*, 98 Ala. 363, 11 So. 743, cited by Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, 1990 Reprinting, Volume 2, p. 145).

On the second point raised by petitioners as to whether respondent Court erred in rejecting the belated submission of proof intended to show that the lands claimed by respondents herein are distinct from those involved in the litigation, this, too, can hardly give rise to a cause for concern which would result in giving relief to petitioners inasmuch as the theoretical proposition put forward overlooks the previous admission in *judicio* of the parties herein that they were referring to the same pieces of property (p. 4, Decision; p. 18, Rollo; Article 1439, New Civil Code; Section 4, Rule 129; Section 2(a), Rule 131, Revised Rules on Evidence; *Roosevelt vs. Smith*, 40 N.Y.S. 381, 17 Misc. 323; *Brooks vs. Sessoms*, 171 S.E. 222, 223, Ga. App. 554; *Little Fay Oil Co. vs. Stanley*, 90 Ore. 265, 217 p. 377, 378; cited in *Compendium on Evidence*, by Sibal and Salazar, Jr., p. 19).

Moreover, We deem it improper for petitioners to blame their former lawyer for failing to present evidence to prove that the parcels of land claimed by respondents are different from those concerned in this case, because precisely of the previous admission of petitioners as to the identity of the lands, there was no need -- as in fact it would have been improper -- to submit contrary proof. Respondent Court thus merely adhered to the proscription under adjective law that the court shall consider no evidence which has not been formally offered (Section 34, Rule 132, Revised Rules on Evidence; *De Castro vs. Court of Appeals, et al.*, 75 Phil. 824; cited in *Remedial Law Compendium*, by Regalado, Volume 2, 1988 edition, p. 547).

WHEREFORE, the petition is hereby DISMISSED and the decision of the Court of Appeals is hereby AFFIRMED, without special pronouncement as to costs.

SO ORDERED.

Davide, Jr., and Romero, JJ., concur.
Bidin, J., in the result.
Gutierrez, Jr., J., (Chairman), on leave.

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