

FIRST DIVISION

[G.R. No. 234419, December 05, 2019]

**HEIRS OF THE LATE SPOUSES VICTOR L. MONTEVILLA AND
RESTITUTA C. MONTEVILLA, REPRESENTED BY ATTY. ANITA C.
MONTEVILLA, PETITIONERS. VS. SPOUSES LEO A. VALLENA AND
MELBA G. VALLENA, RESPONDENTS.**

DECISION

REYES, J. JR., J.:

This is an unlawful detainer case of an unregistered property.

The Case

The petition assails the March 16, 2017 Decision^[1] and September 7, 2017 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 143742, which reversed the July 7, 2015 Regional Trial Court (RTC) Decision^[3] in Civil Case No. 7001. The RTC affirmed the July 8, 2014 Municipal Circuit Trial Court (MCTC) Decision^[4] in Civil Case 068.

The Facts

Petitioners (the Montevillas) are the heirs of Victor L. Montevilla (Victor) and Restituta C. Montevilla (spouses Montevilla), who left their children several parcels of land and one of which is Lot No. 1 (Lot 1) in Dimasalang, Masbate, covered by Tax Declaration No. 3007.^[5]

In 1961, Victor sold a portion of Lot 1, measuring 58 square meters, to Benigno Zeta (Benigno), who sold it to Roman Manlangit (Roman). The latter sold the lot to Jose Vallena (Jose), father of respondent Leo Vallena (Leo).^[6]

At the back of Jose's land was a vacant lot owned by Victor. In 1993,^[7] respondent spouses Leo and Melba Vallena (spouses Vallena) sought permission from Jorge Montevilla^[8] (Jorge), one of Victor's heirs, to use a portion of the vacant lot, measuring 40 square meters, as storage for their *patis* business. Jorge agreed on condition that the structure would be made of light materials. However, when the business prospered, spouses Vallena built a two-storey concrete building without the Montevilla's knowledge, consent, and in defiance of their agreement.^[9]

On May 17, 1994, the administrator of spouses Montevilla's estate, Anita C. Montevilla (Anita), called spouses Vallena's attention on the illegal structure. However, Anita and her sister underwent verbal abuse and threat from Leo. The Montevillas demanded payment of P1,000.00 as monthly rent beginning May, 1994, and to vacate the lot. The demand was unheeded, prompting the Montevillas to file

a civil action for ejectment on April 10, 1995.^[10]

For their part, spouses Vallena denied the Montevilla's allegations. They alleged that Victor sold to Benigno a 58-square meter lot and a 36-square meter lot, or a total of 94 square meters. Benigno sold the 94-square meter lot to Roman, who eventually sold it to Jose. They averred that there is a private document wherein Victor sold to Jose a 4-square meter lot, bringing a total of 98 square meters in Jose's name.^[11]

They asserted that they have been in possession of the contested lot since 1982 up to the present without interruption. Tax Declaration No. 0020 in Jose's name was issued in 1990 because Jose or his successors-in-interest were in actual physical possession of the land.^[12] The tax declaration indicated 98 square meters.^[13] However, spouses Vallena were unable to present the documents of sale because they were either burned or misplaced during Jose's lifetime.^[14]

The MCTC Decision

On July 8, 2014, the MCTC rendered a decision in Montevilla's favor. The MCTC held that spouses Vallena failed to produce the original documents of sale to prove that Jose acquired the contested lot. They presented photocopies of the acknowledgement receipts pertaining to the sale between Victor and Benigno, and Victor and Jose. The MCTC explained that since the validity of the sale was questioned, it is incumbent upon spouses Vallena to produce the original documents for examination of its genuineness and due execution. The MCTC was suspicious of the receipts' integrity, because it observed that Victor's signatures appear to be too similar despite the 20-year gap in their execution. The MCTC expounded that it is natural for a person's handwriting to change or deteriorate over time. The MCTC further observed that only one typewriter was used in the document's preparation.^[15]

Moreover, the MCTC elucidated that even if the court accepted the photocopies as evidence in place of the originals, they were not evidence of sale of the contested lot, because they lack one of the elements of a valid contract. The elements of a contract are consent, object, and consideration. The MCTC found the second element to be lacking, because the photocopied acknowledgement receipts did not sufficiently describe the object of the sale: (1) the location of the property was not specified; (2) there is a blot on the figure representing the dimension of the lot, forcing any reader to guess the size of the lot; and (3) the lot was labelled as swamp land at the back of the house of Jose Vallena, without specific area indicated. The receipts did not fulfill the requirement of the law on certainty of the object of a contract. Hence, there was no perfected and valid contract of sale.^[16]

The MCTC declared that the Montevillas own the 40-square meter lot, ordered spouses Vallena to vacate and remove all its improvements on the subject lot, and to pay P200.00 as monthly rent from April 1995 until the lot is vacated and P10,000.00 as cost of litigation.^[17] Aggrieved, spouses Vallena appealed to the RTC.

The RTC Decision

On July 7, 2015, the RTC affirmed the MCTC decision.^[18] Spouses Vallena raised the

issue of lack of certificate to file action from the *barangay* and special power of attorney of Anita as representative of the Montevillas. The RTC resolved that the reconstituted records showed copies of the said documents.^[19]

The RTC discussed that in unlawful detainer, it must be shown that the possession was initially lawful and later turned unlawful upon the expiration of the right to possess. The Montevillas allowed spouses Vallena to occupy the contested lot and build a structure of light materials. Their occupation was by mere tolerance, which ended when the Montevillas discovered that they violated the condition by building a concrete building.^[20] Thus, the RTC sustained the MCTC's ruling.^[21]

Spouses Vallena moved for reconsideration, which the RTC denied in its October 28, 2015 Order.^[22] Unperturbed, they elevated the matter before the CA.

The CA Decision

On March 16, 2017, the CA reversed the RTC decision, and dismissed the complaint for lack of merit.^[23]

On the procedural aspect, the CA did not give credence to spouses Vallena's arguments. The CA clarified that the absence or belated filing of a special power of attorney is not a ground for the dismissal of a complaint. It is not even necessary in this case, because as one of the heirs of spouses Montevilla and a co-owner of the contested lot, Anita may, by herself, bring an action for the recovery of the co-owned property without the necessity of joining all the co-owners. It is presumed that the action was brought for the benefit of all co-owners.^[24]

The CA also pointed out, that non referral of a case for barangay conciliation, when required by the law, is not jurisdictional and may be waived if not timely raised. Here, spouses Vallena raised the issue only on appeal to the RTC, and failed to include it in their answer and position paper or motion to dismiss. Therefore, they have waived the issue.^[25]

On the substantive aspect, the CA elucidated that in ejectment, the plaintiff must prove prior physical possession to recover the property, even against an owner. Otherwise, the plaintiff has no right of action, even if he/she is the owner of the property.^[26]

Here, the Montevillas claim ownership of the lot without offering any evidence. On the other hand, spouses Vallena proved that their occupation was the result of Jose's acquisition of the lot. The CA found spouses Vallena's version more credible. The CA reasoned that tax declarations and payment of realty tax are indications of possession in the concept of an owner, although they are not conclusive proof. The CA rationalized that no one in his right mind would be paying realty taxes that is not in his/her actual or constructive possession. Hence, the CA ruled in spouses Vallena's favor and dismissed the complaint.^[27]

The Montevillas moved for reconsideration, which the CA denied in its September 7, 2017 Resolution. Unconvinced, the Montevillas filed the present petition under Rule 45. The Montevillas alleged that: (1) the affidavits of Jorge and Anita, the demand

letter, and the affidavit of the boundary lot owners are proof that the spouses Vallena are occupying the contested lot out of their tolerance; (2) prior physical possession need not be proved in unlawful detainer; (3) the CA should not have entertained the issue on tax declaration and payment of realty taxes, which were raised for the first time on appeal; and (4) the findings of fact of the trial courts are given weight on appeal because of their position to examine the evidence.^[28]

In their Comment,^[29] spouses Vallena essentially argued that the issues raised in the petition are not questions of law and should not be entertained by the Court.

In their Reply,^[30] the Montevillas reiterated the contentions raised in their Petition.

The Issue Presented

Whether or not the CA committed an error in reversing the RTC decision, and in ruling that spouses Vallena have the right of possession over the 40-square meter lot.

The Court's Ruling

The petition has merit.

The general rule in a petition for review on certiorari under Rule 45 of the Rules of Court is that only questions of law should be raised. In *Republic v. Heirs of Eladio Santiago*,^[31] the Court enumerated that one of the exceptions to the general rule is when the CA's findings are contrary to those of the trial court. Considering the different findings of fact and conclusions of law of the MCTC, RTC, and the CA, the Court shall entertain this petition, which involves a re-assessment of the evidence presented. In resolving the issue of possession, the Court will provisionally determine the issue of ownership since both parties claim to be the owners.

In its decision, the CA held that the Montevillas did not offer evidence of prior physical possession.^[32]

The Court disagrees. Section 4, Rule 129 of the Rules of Court on judicial admission states that an admission, verbal or written, made by the party in the course of the proceedings in the same case, does not require proof.

Here, the spouses Vallena admitted in their pleadings that Victor was the original owner and alleged seller of the contested 40-square meter lot.^[33] Their admission means that they recognize that Victor had prior possession of the lot before he allegedly sold it to them. A seller must have exercised acts of ownership, such as physical possession and acts of administration, before entering into a transaction over his property. With spouses Vallena's judicial admission, the Montevillas need not prove prior physical possession, because upon Victor's death, his rights, including the right of possession, over the contested lot were transmitted to his heirs by operation of law.

The CA did not uphold the MCTC's finding that the alleged contract of sale is imperfect and invalid.^[34]

To this, the Court differs. It is an established rule that findings of fact of the trial courts are entitled to great weight and credence since they are in the best position to evaluate the evidence. Here, the MCTC had the first opportunity to scrutinize spouses Vallena's documentary exhibits^[35] on the alleged sale, namely: (1) Exhibit 4, a photocopy of the May 2, 1961 deed of sale between Victor and Benigno; (2) Exhibit 5, a photocopy of the December 4, 1963 acknowledgement receipt of payment between Victor and Benigno; and (3) Exhibit 6, a photocopy of the January 3, 1982 acknowledgment receipt of payment between Victor and Jose. The MCTC resolved that since the validity of Jose's acquisition is in question, spouses Vallena should have produced the original documents to examine its genuineness and due execution.

The Court sustains the MCTC's ruling. Section 3, Rule 130 of the Rules of Court on best evidence rule states that when the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself.

Here, spouses Vallena presented photocopies of the alleged deed of sale and alleged acknowledgment receipts. They claim that the original copies were misplaced, missing, lost, or burned,^[36] but they were unable to state with certainty the circumstances surrounding its disappearance. Importantly, they failed to prove that the original documents existed in the first place. Without the original documents, spouses Vallena failed to prove that Jose bought the contested lot partly from Victor and partly from Roman.

The Court also noticed that the deed of sale and one of the acknowledgement receipts pertain to a sale between Victor and Benigno. The deed of sale specified that Victor sold a lot, measuring 58 square meters, to Benigno for P210.00. The two documents show that a transaction took place between them, and nowhere does Jose's name appear in these documents. These documents do not prove that Victor and Jose or Benigno and Jose entered into a contract of sale.

As for the other acknowledgement receipt allegedly between Victor and Jose, the Court also upholds the MCTC ruling that even if the court accepts the photocopies as evidence, they are not sufficient evidence of a contract of sale for lack of one of the elements - certainty of object under Article 1318^[37] of the New Civil Code of the Philippines. Since spouses Vallena were unable to prove that Jose bought the contested lot from Victor, their main defense crumbles.

The Court reviewed Exhibit 7 (spouses Vallena's Joint Affidavit^[38] and found that they failed to indicate with certainty the size of the land that Victor and Roman allegedly sold to Jose. Spouses Vallenas' Answer^[39] and Position Paper^[40] also contain ambiguous allegations on the exact measurement of the lot allegedly sold. The Position Paper states the following:

The area which was sold to Benigno Zita was only 58 [s]quare [m]eters with an additional area having 2 meters in length and a **blurred or not readable width which could either be 8, 5 or 3 meters and assuming that it was only 3 meters** by, 12 meters or 36 [s]quare [m]eters to be added to 58 square meters, the total area of which will be 94 [s]quare [m]eters.