

THIRD DIVISION

[G.R. No. 196444, February 15, 2017]

**DASMARIÑAS T. ARCAINA AND MAGNANI T. BANTA,
PETITIONERS, VS. NOEMI L. INGRAM, REPRESENTED BY MA.
NENETTE L. ARCHINUE, RESPONDENT.**

D E C I S I O N

JARDELEZA, J.:

This is a Petition for Review on *Certiorari*^[1] assailing the October 26, 2010 Decision^[2] and March 17, 2011 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 107997, which affirmed with modification the March 11, 2009 Decision^[4] of the Regional Trial Court-Branch 7 of Legazpi City (RTC). The RTC reversed the July 31, 2008 Order^[5] of the 3rd Municipal Circuit Trial Court of Sto. Domingo-Manito in Albay (MCTC). The MCTC dismissed for insufficiency of evidence Civil Case No. S-241-a case for recovery of ownership and title to real property, possession and damages with preliminary injunction (recovery case)-filed by respondent Noemi L. Ingram (Ingram) against petitioners Dasmarinas T. Arcaina (Arcaina) and Magnani T. Banta (Banta) [collectively, petitioners].

I

Arcaina is the owner of Lot No. 3230 (property) located at Salvacion, Sto. Domingo, Albay. Sometime in 2004, her attorney-in-fact, Banta, entered into a contract with Ingram for the sale of the property. Banta showed Ingram and the latter's attorney-in-fact, respondent Ma. Nenette L. Archinue (Archinue), the metes and bounds of the property and represented that Lot No. 3230 has an area of more or less 6,200 square meters (sq. m.) per the tax declaration covering it. The contract price was P1,860,000.00 with Ingram making installment payments for the property from May 5, 2004 to February 10, 2005 totaling P1,715,000.00.^[6] Banta and Ingram thereafter executed a Memorandum of Agreement acknowledging the previous payments and that Ingram still had an obligation to pay the remaining balance in the amount of P145,000.00.^[7] They also separately executed deeds of absolute sale over the property in Ingram's favor. Both deeds described the property to wit:

DESCRIPTION

A parcel of land Lot No. 3230, situated at Salvacion, Sto. Domingo, Albay, Bounded on the NE-by Lot 3184 on the SE-by Seashore on the SW-Lot No. 3914 and on the NW-by Road with an area of **SIX THOUSAND TWO HUNDRED** (6,200) sq. meters more or less.^[8]

Subsequently, Ingram caused the property to be surveyed and discovered that Lot No. 3230 has an area of 12,000 sq. m. Upon learning of the actual area of the

property, Banta allegedly insisted that the difference of 5,800 sq. m. remains unsold. This was opposed by Ingram who claims that she owns the whole lot by virtue of the sale.^[9] Thus, Archinue, on behalf of Ingram, instituted the recovery case, docketed as Civil Case No. S-241, against petitioners before the MCTC.

In her Complaint, Ingram alleged that upon discovery of the actual area of the property, Banta insisted on fencing the portion which she claimed to be unsold. Ingram further maintained that she is ready to pay the balance of P145,000.00 as soon as petitioners recognize her ownership of the whole property. After all, the sale contemplated the entire property as in fact the boundaries of the lot were clearly stated in the deeds of sale.^[10] Accordingly, Ingram prayed that the MCTC declare her owner of the whole property and order petitioners to pay moral damages, attorney's fees and litigation expenses. She also asked the court to issue a writ of preliminary injunction to enjoin the petitioners from undertaking acts of ownership over the alleged unsold portion.^[11]

In their Answer with Counterclaim, petitioners denied that the sale contemplates the entire property and contended that the parties agreed that only 6,200 sq. m. shall be sold at the rate of P300.00 per sq. m.^[12] This, according to petitioners, is consistent with the contemporaneous acts of the parties: Ingram declared only 6,200 sq. m. of the property for tax purposes, while Arcaina declared the remaining portion under her name with no objection from Ingram. Petitioners averred that since Ingram failed to show that she has a right over the unsold portion of the property, the complaint for recovery of possession should be dismissed.^[13] By way of counterclaim, petitioners asked for the payment of the balance of P145,000.00, as well as attorney's fees, litigation expenses, and costs of suit.^[14]

Trial ensued. After Ingram presented her evidence, petitioners filed a demurrer on the grounds that (1) Ingram failed to sufficiently establish her claim and (2) her claim lacks basis in fact and in law.^[15]

In its Order dated July 31, 2008, the MCTC granted petitioners' demurrer and counterclaim against Ingram, thus:

WHEREFORE, in view of the foregoing this instant case is hereby ordered **DISMISSED** for insufficiency of evidence.

Plaintiffs are further ordered to pay to the Defendants the remaining amount of **ONE HUNDRED FORTY FIVE THOUSAND (PhP 145,000.00) PESOS** as *counterclaim* for the remaining balance of the contract as admitted by the Plaintiffs during the Pre-Trial.

SO ORDERED.^[16]

The MCTC held that the testimonies of Ingram and her witnesses suffer from several inconsistencies and improbabilities. For instance, while Archinue claimed that what was sold was the entire property, she also admitted in her cross-examination that she was not present when the sale was consummated between Banta, Ingram and Ingram's husband Jeffrey. Further, Archinue stated that she was made aware before their ocular visit to the property that the lot being sold is only 6,200 sq. m. based on the tax declaration covering it.^[17] Ingram also had knowledge of the area of the

property as confirmed by her husband Jeffrey's testimony. Jeffrey also testified that Banta gave them a copy of the tax declaration of the property.^[18]

The MCTC declared that the survey showed that the property was 12,000 sq. m. or more than what was stated in the deeds of sale.^[19] For Ingram to be awarded the excess 5,800 sq. m. portion of the property, she should have presented evidence that she paid for the surplus area consistent with Article 1540 of the Civil Code which reads:

Art. 1540. If, in the case of the preceding article, there is a greater area or number in the immovable than that stated in the contract, the vendee may accept the area included in the contract and reject the rest. If he accepts the whole area, he must pay for the same at the contract rate.

Accordingly, since Ingram failed to show that she paid for the value of the excess land area, the MCTC held that she cannot claim ownership and possession of the whole property.

On appeal, the RTC reversed and set aside the Order of the MCTC, to wit:

WHEREFORE, premises considered, the assailed Decision dated July 31, 2008 by the Municipal [Circuit] Trial Court of Sto. Domingo, Albay is hereby REVERSED and SET ASIDE and a new judgment is hereby rendered as follows:

1. Ordering plaintiff-appellant [referring to Ingram] to pay the defendant-appellee [referring to Arcaina] the amount of P145,000.00 representing the remaining balance of the purchase price of Lot 3230;
2. Declaring Noemi L. Ingram the owner of the whole Lot 3230;
3. Ordering defendants-appellees Dasmariñas T. Arcaina and Magnani Banta or their agents to remove the fence constructed by them on the said lot and to respect the peaceful possession of Noemi Ingram over the same;
4. Ordering defendants-appellees Dasmariñas Arcaina and Magnani Banta to pay jointly and severally the plaintiff-appellant Noemi Ingram the amount of P5,000.00 as reasonable attorney's fees; and
5. To pay the cost of suit.

SO ORDERED.^[20]

The RTC found that neither of the parties presented competent evidence to prove the property's actual area. Except for a photocopy of the cadastral map purportedly showing the graphical presentation of the property, no plan duly prepared and approved by the proper government agency showing the area of the lot was presented. Hence, the RTC concluded that the area of Lot No. 3230 as shown by the boundaries indicated in the deeds of sale is only 6,200 sq. m. more or less. Having sold Lot No. 3230 to Ingram, Arcaina must vacate it.^[21]

In addition, the RTC held that Article 1542, which covers sale of real estate in lump sum, applies in this case.

Having apparently sold the entire Lot No. 3230 for a lump sum, Arcaina, as the vendor, is obligated to deliver all the land included in the boundaries of the property, regardless of whether the real area should be greater or smaller than what is recited in the deeds of sale.^[22]

In its Decision dated October 26, 2010, the CA affirmed the RTC's ruling with modification. It deleted paragraphs 4 and 5 of the dispositive portion of the RTC's Decision, which ordered petitioners to pay P5,000.00 as attorney's fees and costs of suit, respectively.^[23]

The CA agreed with the RTC that other than the uniform statements of the parties, no evidence was presented to show that the property was found to have an actual area of more or less 12,000 sq. m. It held that the parties' statements cannot be simply admitted as true and correct because the area of the land is a matter of public record and presumed to have been recorded in the Registry of Deeds. The CA noted that the best evidence should have been a certified true copy of the survey plan duly approved by the proper government agency.^[24]

The CA also agreed with the RTC that the sale was made for a **lump sum** and not on a per-square-meter basis. The parties merely agreed on the purchase price of P1,860,000.00 for the 6,200 sq. m. lot, with the deed of sale providing for the specific boundaries of the property.^[25] Citing *Rudolf Lietz, Inc. v. Court of Appeals*,^[26] the CA explained that in case of conflict between the area and the boundaries of a land subject of the sale, the vendor is obliged to deliver to the vendee everything within the boundaries. This is in consonance with Article 1542 of the Civil Code. Further, the CA found the area in excess "substantial" which, to its mind, "should have not escaped the discerning eye of an ordinary vendor of a piece of land."^[27] Thus, it held that the RTC correctly ordered petitioners to deliver the entire property to Ingram.

The CA, however, deleted the award of attorney's fees and the costs of suit, stating that there was no basis in awarding them. First, the RTC did not discuss the grounds for granting attorney's fees in the body of its decision. Second, Arcaina cannot be faulted for claiming and then fencing the excess area of the land after the survey on her honest belief that the ownership remained with her.^[28]

Petitioners moved for reconsideration, raising for the first time the issue of prescription. They pleaded that under Article 1543^[29] of the Civil Code, Ingram should have filed the action within six months from the delivery of the property. Counting from Arcaina's execution of the notarized deed of absolute sale on April 13, 2005, petitioners concluded that the filing of the case only on January 25, 2006 is already time-barred.^[30] The CA denied petitioners' motion for reconsideration and ruled that Article 1543 does not apply because Ingram had no intention of rescinding the sale. In fact, she instituted the action to recover the excess portion of the land that petitioners claimed to be unsold. Thus, insofar as Ingram is concerned, that portion remained undelivered.^[31]

Petitioners now assail the CA's declaration that the sale of the property was made for a lump sum. They insist that they sold the property on a per-square-meter basis, at the rate of P300.00 per sq. m. They further claim that they were aware that the property contains more than 6,200 sq. m. According to petitioners, this is the reason why the area sold is specifically stated in the deeds of sale. Unfortunately, in the drafting of the deeds, the word "portion" was omitted. They allege that contemporaneously with the execution of the formal contract of sale, they delivered the area sold and constructed a fence delineating the unsold portion of the property. [32] Ingram allegedly recognized the demarcation because she introduced improvements confined to the area delivered. [33] Since the sale was on a per-square-meter basis, petitioners argue that it is Article 1539, [34] and not Article 1542 of the Civil Code, which governs. [35]

In her Comment, Ingram accuses petitioners of raising new and irrelevant issues based on factual allegations which they cannot in any case prove, as a consequence of their filing a demurrer to evidence. [36] She maintains that the only issue for resolution is whether the sale was made on a lump sum or per-square-meter basis. On this score, Ingram asserts that the parties intended the sale of the entire lot, the boundaries of which were stated in the deeds of sale. These deeds of sale, as observed by the CA, did not contain any qualification. [37]

II

At the outset, we find that contrary to the findings of the RTC and the CA, the result of the survey conducted on the property is **not** a disputed fact. In their Answer to the Complaint, petitioners admitted that when the property was surveyed, it yielded an area of more or less 12,000 sq. m. [38] Nevertheless, petitioners now proffer that they agree with the CA that the final survey of the property is not yet approved; hence, there can be no valid verdict for the final adjudication of the parties' rights under the contract of sale. [39]

We reject petitioners' contention on this point.

Judicial admissions made by the parties in the pleadings, or in the course of the trial or other proceedings in the same case, are conclusive and do not require further evidence to prove them. These admissions cannot be contradicted unless previously shown to have been made through palpable mistake or that no such admission was made. [40] Petitioners do not deny their previous admission, much less allege that they had made a palpable mistake. Thus, they are bound by it.

We now resolve the main issue in this case and hold that Lot No. 3230 was sold for a **lump sum**. In sales involving real estate, the parties may choose between two types of pricing agreement: a **unit price contract** wherein the purchase price is determined by way of reference to a stated rate per unit area (e.g., P1,000.00 per sq. m.) or a **lump sum contract** which states a full purchase price for an immovable the area of which may be declared based on an estimate or where both the area and boundaries are stated (e.g., P1 million for 1,000 sq. m., etc.). [41] Here, the Deed of Sale executed by Banta on March 21, 2005 [42] and the Deed of Sale executed by Arcaina on April 13, 2005 [43] both show that the property was