

## **SPECIAL THIRD DIVISION**

**[ G.R. No. 200349, March 06, 2017 ]**

**FE B. YABUT AND NORBERTO YABUT, SUBSTITUTED BY HIS  
HEIRS REPRESENTED BY CATHERINE Y. CASTILLO,  
PETITIONERS, VS. ROMEO ALCANTARA, SUBSTITUTED BY HIS  
HEIRS REPRESENTED BY FLORA LLUCH ALCANTARA,  
RESPONDENTS.**

### **D E C I S I O N**

**PERALTA, J.:**

Before the Court is a Petition for Review questioning the Decision<sup>[1]</sup> of the Court of Appeals (CA), Cagayan de Oro City, dated March 15, 2011, and its Resolution<sup>[2]</sup> dated January 25, 2012 in CA-G.R. CV No. 81799-MIN which upheld the Decision<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 21, Pagadian City, dated December 19, 2003, ruling that the requisites for the reconveyance of the subject properties were present.

The factual and procedural antecedents of the case, as borne out by the records, are as follows:

Romeo Alcantara filed a Complaint for Reconveyance alleging that he was the true and lawful owner and possessor of parcels of agricultural residential land located in Balangasan, Pagadian City, known as Lots 6509-C and 6509-D, Pls-119 (now Lots 8780 and 8781, Cad-11910, respectively) with a combined area of 2.5 hectares, more or less. He claimed that he had been in possession of the property since the time he bought it in 1960 from Pantaleon Suazola, who, in turn, had been continuously and openly in occupation and possession of said property in the concept of an owner for more than thirty (30) years before Alcantara acquired the same. Tiburcio Ballesteros then purportedly employed fraud to have the contested property registered in his name. Barely six (6) months later, Ballesteros sold the lots to his daughter, Fe B. Yabut.

For petitioners' part, on the other hand, they contend that Ballesteros applied for a Sales Application (SA 10279) covering a total land area of 46.2930 hectares with the Bureau of Lands as far back as December 9, 1927. On July 31, 1928, Barbara Andoy filed a Sales Application (SA 10960) over a portion of the same land area applied for by Ballesteros. On April 10, 1930, the Assistant Director of Lands issued a Decision in the case *S.A. No. 10279, Tiburcio Ballesteros, Applicant and Contestant, versus S.A. No. 10960, Barbara Andoy, Applicant and Respondent*, finding that Andoy entered a portion of the land in dispute with the knowledge that the premises had already been applied for by Ballesteros. Since Andoy's entry was not made in good faith, SA 10960 was rejected and SA 10279 was given due course.<sup>[4]</sup> In July 1931, SA 10279 was parcelled into Lot Nos. 5862, 5863, 6576, 6586, 7098, and 6509.

Thereafter, Andoy's heirs entered and laid out their claims on portions of SA 10279: Faustino Andoy Jamisola on Lot No. 6509, Faustina Jamisola de Calivo on Lot No. 6576, and Oliva Jamisola de Libutan on Lot Nos. 6586 and 7098. Because of this, Ballesteros was forced to file a case of forcible entry against the Jamisola siblings in 1938 before the local Municipal Justice of Peace. This was later elevated to the Court of First Instance of Zamboanga. Unfortunately, Ballesteros, being the Commander of the United States Army Forces in the Far East forces in Western Negros, was captured as a prisoner of war during the World War II and imprisoned for three (3) years at the Capas, Tarlac concentration camp. During Ballesteros's absence or specifically on August 20, 1946, Andoy's son, Faustino Andoy Jamisola, sold a part of the subject property to Pantaleon Suazola. Said part covered an area of six (6) hectares and was later identified as Lot No. 6509-A.<sup>[5]</sup>

When Ballesteros returned to Pagadian in 1949 after his retirement as Provincial Philippine Constabulary Commander of Pampanga, he learned about the sale of the six (6) hectares between Faustino and Suazola. In deference to Suazola's son, who was his *compadre*, Ballesteros recognized said sale in an Affidavit, despite the covered property being part of SA 10279. Subsequently, Suazola sold the six (6) hectares to B.B. Andrada.

On September 3, 1952, however, Suazola filed Free Patent Application No. V8352 (*FPA No. V8352*) over what he identified as Lot No. 4111, which turned out to be the whole 11.5 hectares of Lot No. 6509. Thus, Ballesteros filed a Letter Protest to the Director of Lands against Suazola's FPA No. V8352. On August 11, 1953, the Director of Lands ruled that the rejection of Andoy's sales application in 1930 and the consequent recognition of better rights in favor of Ballesteros were as much binding upon the Jamisola siblings as it had been upon their mother.<sup>[6]</sup> The Jamisola siblings then appealed to the Secretary of the Department of Agriculture and Natural Resources (*DANR*). On June 30, 1955, the DANR Secretary excluded the lots being claimed by the Jamisola siblings from SA 10279, in line with the government's land for the landless policy. Ballesteros then filed a motion for reconsideration (*MR*) contending that the Jamisolas were, in fact, not landless and offered proof that they owned several tracts of land. On September 3, 1955, the DANR granted said MR and held that, based on the new evidence presented, the claims of the Jamisolas over the portions in question should be rejected and the whole area covered by the sales application of Ballesteros should be further given due course.<sup>[7]</sup> The Jamisola siblings filed a petition for *certiorari* before the Court of First Instance (*CFI*) but the same was dismissed. They elevated the case to the Supreme Court which was docketed as G.R. No. L-17466.

Sometime in May 1958, Andrada's son-in-law, Felipe Fetalvero, caused the survey of Lot No. 6509. In said survey, the portion sold to Andrada was identified as Lot No. 6509-A consisting of 6.3616 hectares. The survey likewise showed that the whole of Lot No. 6509 consisted of 10.5047 hectares, plus another hectare of *barangay* roads traversing Lot Nos. 6509-A and 6509-D, for a total of 11.5 hectares. Thus, without Lot No. 6509-A and the *barangay* roads, Lot No. 6509 was still left with a total of 4.1431 hectares consisting of Lot No. 6509-B with 1.7154 hectares, Lot No. 6509-C with 0.9821 hectare, and Lot No. 6509-D with 1.4456 hectares.

On August 12 and September 12, 1960, Romeo B. Alcantara bought Lot Nos. 6509-

C and 6509-D from Suazola's heirs. He then applied for a Free Patent over Lot No. 6509-C on October 15, 1960 and another over Lot No. 6509-D on April 25, 1962.

On September 18, 1965, the Supreme Court, in G.R. No. L-17466, upheld the CFI's dismissal of the petition filed by the Jamisola siblings as well as the September 3, 1955 Order of the DANR granting the MR of Ballesteros. Despite finality of the Court's decision in G.R. No. L-17466, the Jamisolas and their successors-in-interest still refused to vacate the premises of the subject lots. As a result, the Director of Lands issued an Order of Execution on July 6, 1966 directed to the District Land Officer to order the Jamisolas, their relatives, representatives, tenants, or anybody acting in their behalf to vacate the premises and place Ballesteros in peaceful and exclusive possession of the same. Thereafter, the DANR Land Investigator submitted a report stating that the Jamisolas or any of their relatives was not actually living within the premises.

As a result of the favorable ruling, Ballesteros filed a cadastral answer for the judicial confirmation of his title in the cadastral proceedings over Lot Nos. 6509-C and -D in Cadastral Case No. N-14, LRC Cad. Rec. No. N-475. His title to the subject properties was confirmed in said proceedings and eventually, a decree was made registering such title under the Torrens System as Original Certificate of Title (OCT) No. T 0-4,051 on February 24, 1969. Again, Lot No. 6509-A was not included in this OCT since it was that part of the property the sale of which Ballesteros had recognized.

On August 5, 1969, Ballesteros sold Lot Nos. 6509-B, 6509-C, and 6509-D to his daughter, Yabut. Said lots were then registered under TCT No. T-4,975. On September 16, 1969, Alcantara filed a petition for review with the CFI praying that the issuance of the decree of title over the subject lots in favor of Ballesteros and the Yabuts be set aside since he was the true and lawful owner and possessor of said parcels of land and that they were totally devoid of any lawful claim over the subject lots.

On January 13, 1976, the CFI of Zamboanga del Sur dismissed Alcantara's petition, the dispositive portion of which states:

IN VIEW OF THE FOREGOING CONSIDERATIONS, the motion to dismiss filed by the herein movant Tiburcio Ballesteros is hereby GRANTED and the present petition for review is hereby dismissed. With costs against petitioner.

IT IS SO ORDERED.<sup>[8]</sup>

Hence, Alcantara filed the Complaint for Reconveyance.

Meanwhile, on July 13, 1993, the heirs of Ballesteros filed an action for reconveyance before the Pagadian RTC, docketed as Civil Case No. 3395, against the heirs of the Jamisola siblings, who had been able to register Lot Nos. 6576 and 7098, Pls-119 in their name in Cadastral Case No. N-14, LRC Cad. RMC No. N-475. When the RTC ruled in favor of the Jamisola heirs, the heirs of Ballesteros appealed before the CA. On January 21, 2003, the CA granted<sup>[9]</sup> the appeal of the heirs of Ballesteros and pointed out that the litigations should have stopped had the finality of the Court's decision in G.R. No. L-17466 been honored and respected. The

appellate likewise chastised the long-time counsel of the Jamisolas, Atty. Antonio Ceniza, for not advising his clients of the legal import of the 1965 final ruling of the Court. The heirs of Jamisola thus filed a petition for review which the Court denied on August 4, 2003 in G.R. Nos. 158953-54.<sup>[10]</sup> The Order of Denial later became final and executory on October 30, 2003.

On December 19, 2003, the RTC granted Alcantara's Complaint for Reconveyance, thus:

**WHEREFORE**, judgment is hereby rendered in favor of the plaintiff. Accordingly, defendant is hereby ordered to execute a Deed of Reconveyance in favor of the plaintiff over Lot No. 6509-C, now Lot No. 8780, Pls-119, and Lot No. 6509-D, now Lot No. 8781, Pls-119, both covered by and described in Transfer Certificate No. 4,975, registered in the name of the defendant. Defendant is further ordered to surrender the said transfer certificate of title to the plaintiff together with the Deed of Reconveyance.

In the event of defendant's failure to comply with the foregoing order of the Court, the Sheriff of the Regional Trial Court, Pagadian City, is hereby ordered to execute the necessary Deed of Reconveyance in favor of the plaintiff.

No pronouncement as to cost.

SO ORDERED.<sup>[11]</sup>

Subsequently, Fe and her husband, Norberta Yabut, (*the Spouses Yabut*) elevated the case to the CA. On March 15, 2011, the appellate court dismissed the appeal and affirmed the RTC Decision, *viz.*:

**WHEREFORE**, the appeal is **DISMISSED**.

**SO ORDERED.**<sup>[12]</sup>

After the Spouses Yabut's Motion for Partial Reconsideration had been denied,<sup>[13]</sup> they filed the instant petition.

The main issue to be resolved in the case at bar is whether or not there is legal basis to support the reconveyance of the properties in question in favor of the Alcantaras.

True, a petition for review on *certiorari* under Rule 45 is an appeal from a ruling of a lower tribunal on pure questions of law. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact. It is only in exceptional circumstances that we admit and review questions of fact.<sup>[14]</sup> These recognized exceptions are: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on misapprehension of

facts; (5) when the findings of facts are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by parties, which, if properly considered, would justify a different conclusion.<sup>[15]</sup> Here, the rulings by the courts below are manifestly mistaken, due to misapprehension of facts.

Respondents miserably failed to prove that they are the actual owners of the parcel of land they are claiming. They failed to present adequate evidence pointing to any legal and valid source of a right over said lots.

The RTC held that what was excluded from SA 10279 was the entire 11.5 hectares of Lot 6509, and not merely the six (6) hectares Ballesteros claimed to have been sold by Jamisola to Suazola. It pointed out that in the September 18, 1965 Court's decision, it was actually the whole of Lot 6509 that was excluded from the sales application of Ballesteros without referring to any specific portion or area, to wit:

x x x x So, the Secretary of Agriculture and Natural Resources reversed his decision of June 30, 1955 and affirmed the decision of the Director of Lands **but excepted Lot No. 6509** which was **transferred by Faustina Jamisola to one Pantaleon Suasola and the transfer is also recognized by Ballesteros.**<sup>[16]</sup>

x x x x But upon proof, attached by Ballesteros to his amended motion for reconsideration, that appellants were not quite landless, the Secretary set aside his decision and affirmed the Director's decision, **except with respect to Lot No. 6509** which had been transferred to a certain Suasola, for the reason **that Ballesteros recognized the transfer.**<sup>[17]</sup>

However, while it is true that there was no mention of a specific part of Lot 6509, said property was repeatedly referred to as the lot which was subject of the transfer between Jamisola and Suazola that was recognized by Ballesteros. The Court stresses that the only sale between Jamisola and Suazola that Ballesteros clearly and expressly recognized was the one made on August 20, 1946 over a six (6)-hectare part of Lot 6509, later identified in a survey as Lot 6509-A. Ballesteros even executed an affidavit specially stating that he was acknowledging said sale to Suazola, only because the latter's son was his *compadre* and only with respect to the six (6) hectares. It could not have been the whole Lot 6509 since the total area of this property covers 11.5 hectares. The lone reason why the DANR failed to specify Lot 6509-A in its September 3, 1955 Order was because the survey on Lot 6509 would be done only in 1958. It had no other way of properly identifying the six (6) hectares which Jamisola sold to Suazola other than by referring to it as Lot 6509, since any portion of Lot 6509 was identified as simply Lot 6509. The Court could not likewise have corrected the same in its 1965 Decision since the appeal before it was exclusively on questions of law and it held that the findings of fact made by the CFI are conclusive and binding against it. The sole issue to be resolved then was whether or not the CFI erred when it held that the Director of Lands and