661 Phil. 306

THIRD DIVISION

[G.R. No. 165427, March 21, 2011]

BETTY B. LACBAYAN, PETITIONER, VS. BAYANI S. SAMOY, JR., RESPONDENT.

D E C I S I O N

VILLARAMA, JR., J.:

This settles the petition for review on certiorari filed by petitioner Betty B. Lacbayan against respondent Bayani S. Samoy, Jr. assailing the September 14, 2004 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 67596. The CA had affirmed the February 10, 2000 Decision[2] of the Regional Trial Court (RTC), Branch 224, of Quezon City declaring respondent as the sole owner of the properties involved in this suit and awarding to him P100,000.00 as attorney's fees.

This suit stemmed from the following facts.

Petitioner and respondent met each other through a common friend sometime in 1978. Despite respondent being already married, their relationship developed until petitioner gave birth to respondent's son on October 12, 1979.[3]

During their illicit relationship, petitioner and respondent, together with three more incorporators, were able to establish a manpower services company.[4] Five parcels of land were also acquired during the said period and were registered in petitioner and respondent's names, ostensibly as husband and wife. The lands are briefly described as follows:

1. A 255-square meter real estate property located at Malvar St., Quezon City covered by TCT No. 303224 and registered in the name of Bayani S. Samoy, Jr. "married to Betty Lacbayan."[5]

2. A 296-square meter real estate property located at Main Ave., Quezon City covered by TCT No. 23301 and registered in the name of "Spouses Bayani S. Samoy and Betty Lacbayan."[6]

3. A 300-square meter real estate property located at Matatag St., Quezon City covered by TCT No. RT-38264 and registered in the name of Bayani S. Samoy, Jr. "married to Betty Lacbayan Samoy." [7]

4. A 183.20-square meter real estate property located at Zobel St., Quezon City covered by TCT No. 335193 and registered in the name

of Bayani S. Samoy, Jr. "married to Betty L. Samoy."[8]

5. A 400-square meter real estate property located at Don Enrique Heights, Quezon City covered by TCT No. 90232 and registered in the name of Bayani S. Samoy, Jr. "married to Betty L. Samoy."[9]

Initially, petitioner lived with her parents in Mapagbigay St., V. Luna, Quezon City. In 1983, petitioner left her parents and decided to reside in the property located in Malvar St. in Project 4, Quezon City. Later, she and their son transferred to Zobel St., also in Project 4, and finally to the 400-square meter property in Don Enrique Heights.[10]

Eventually, however, their relationship turned sour and they decided to part ways sometime in 1991. In 1998, both parties agreed to divide the said properties and terminate their business partnership by executing a Partition Agreement.[11] Initially, respondent agreed to petitioner's proposal that the properties in Malvar St. and Don Enrique Heights be assigned to the latter, while the ownership over the three other properties will go to respondent.[12] However, when petitioner wanted additional demands to be included in the partition agreement, respondent refused.[13] Feeling aggrieved, petitioner filed a complaint for judicial partition[14] of the said properties before the RTC in Quezon City on May 31, 1999.

In her complaint, petitioner averred that she and respondent started to live together as husband and wife in 1979 without the benefit of marriage and worked together as business partners, acquiring real properties amounting to P15,500,000.00.[15] Respondent, in his Answer,[16] however, denied petitioner's claim of cohabitation and said that the properties were acquired out of his own personal funds without any contribution from petitioner.[17]

During the trial, petitioner admitted that although they were together for almost 24 hours a day in 1983 until 1991, respondent would still go home to his wife usually in the wee hours of the morning.[18] Petitioner likewise claimed that they acquired the said real estate properties from the income of the company which she and respondent established.[19]

Respondent, meanwhile, testified that the properties were purchased from his personal funds, salaries, dividends, allowances and commissions.[20] He countered that the said properties were registered in his name together with petitioner to exclude the same from the property regime of respondent and his legal wife, and to prevent the possible dissipation of the said properties since his legal wife was then a heavy gambler.[21] Respondent added that he also purchased the said properties as investment, with the intention to sell them later on for the purchase or construction of a new building.[22]

On February 10, 2000, the trial court rendered a decision dismissing the complaint for lack of merit.[23] In resolving the issue on ownership, the RTC decided to give considerable weight to petitioner's own admission that the properties were acquired not from her own personal funds but from the income of the manpower services

company over which she owns a measly 3.33% share.[24]

Aggrieved, petitioner elevated the matter to the CA asserting that she is the *pro indiviso* owner of one-half of the properties in dispute. Petitioner argued that the trial court's decision subjected the certificates of title over the said properties to collateral attack contrary to law and jurisprudence. Petitioner also contended that it is improper to thresh out the issue on ownership in an action for partition.[25]

Unimpressed with petitioner's arguments, the appellate court denied the appeal, explaining in the following manner:

> Appellant's harping on the indefeasibility of the certificates of title covering the subject realties is, to say the least, misplaced. Rather than the validity of said certificates which was nowhere dealt with in the appealed decision, the record shows that what the trial court determined therein was the ownership of the subject realties - itself an issue correlative to and a necessary adjunct of the claim of co-ownership upon which appellant anchored her cause of action for partition. It bears emphasizing, moreover, that the rule on the indefeasibility of a Torrens title applies only to original and not to subsequent registration as that availed of by the parties in respect to the properties in litigation. To our mind, the inapplicability of said principle to the case at bench is even more underscored by the admitted falsity of the registration of the selfsame realties in the parties' name as husband and wife.
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> The same dearth of merit permeates appellant's imputation of reversible error against the trial court for supposedly failing to make the proper delineation between an action for partition and an action involving ownership. Typically brought by a person claiming to be co-owner of a specified property against a defendant or defendants whom the plaintiff recognizes to be co-owners, an action for partition may be seen to present simultaneously two principal issues, *i.e.*, first, the issue of whether the plaintiff is indeed a co-owner of the property sought to be partitioned and, second - assuming that the plaintiff successfully hurdles the first - the issue of how the property is to be divided between plaintiff and defendant(s). Otherwise stated, the court must initially settle the issue of ownership for the simple reason that it cannot properly issue an order to divide the property without first making a determination as to the existence of co-ownership. Until and unless the issue of ownership is definitely resolved, it would be premature to effect a partition of the properties. This is precisely what the trial court did when it discounted the merit in appellant's claim of co-ownership.[26]

Hence, this petition premised on the following arguments:

> I. Ownership cannot be passed upon in a partition case.
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> II. The partition agreement duly signed by respondent contains an admission against respondent's interest as to the existence of co-

ownership between the parties.

III. An action for partition cannot be defeated by the mere expedience of repudiating co-ownership based on self-serving claims of exclusive ownership of the properties in dispute.

IV. A Torrens title is the best evidence of ownership which cannot be outweighed by respondent's self-serving assertion to the contrary.

V. The properties involved were acquired by both parties through their actual joint contribution of money, property, or industry.[27]

Noticeably, the last argument is essentially a question of fact, which we feel has been squarely threshed out in the decisions of both the trial and appellate courts. We deem it wise not to disturb the findings of the lower courts on the said matter absent any showing that the instant case falls under the exceptions to the general rule that questions of fact are beyond the ambit of the Court's jurisdiction in petitions under Rule 45 of the 1997 Rules of Civil Procedure, as amended. The issues may be summarized into only three:

I. Whether an action for partition precludes a settlement on the issue of ownership;

II. Whether the Torrens title over the disputed properties was collaterally attacked in the action for partition; and

III. Whether respondent is estopped from repudiating co-ownership over the subject realties.

We find the petition bereft of merit.

Our disquisition in *Municipality of Biñan v. Garcia*[28] is definitive. There, we explained that the determination as to the existence of co-ownership is necessary in the resolution of an action for partition. Thus:

> The **first phase of a partition** and/or accounting suit **is taken up with the determination of whether or not a co-ownership in fact exists, and a partition is proper** (*i.e.*, not otherwise legally proscribed) and may be made by voluntary agreement of all the parties interested in the property. This phase may end with a declaration that plaintiff is not entitled to have a partition either because a co-ownership does not exist, or partition is legally prohibited. It may end, on the other hand, with an adjudgment that a co-ownership does in truth exist, partition is proper in the premises and an accounting of rents and profits received by the defendant from the real estate in question is in order. x x x
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> The second phase commences when it appears that "the parties are unable to agree upon the partition" directed by the court. In that event[,] partition shall be done for the parties by the [c]ourt with the assistance

> of not more than three (3) commissioners. This second stage may well also deal with the rendition of the accounting itself and its approval by the [c]ourt after the parties have been accorded opportunity to be heard thereon, and an award for the recovery by the party or parties thereto entitled of their just share in the rents and profits of the real estate in question. x x x[29] (Emphasis supplied.)

While it is true that the complaint involved here is one for partition, the same is premised on the existence or non-existence of co-ownership between the parties. Petitioner insists she is a co-owner *pro indiviso* of the five real estate properties based on the transfer certificates of title (TCTs) covering the subject properties. Respondent maintains otherwise. Indubitably, therefore, until and unless this issue of co-ownership is definitely and finally resolved, it would be premature to effect a partition of the disputed properties.[30] More importantly, the complaint will not even lie if the claimant, or petitioner in this case, does not even have any rightful interest over the subject properties.[31]

Would a resolution on the issue of ownership subject the Torrens title issued over the disputed realties to a collateral attack? Most definitely, it would not.

There is no dispute that a Torrens certificate of title cannot be collaterally attacked, [32] but that rule is not material to the case at bar. What cannot be collaterally attacked is the certificate of title and not the title itself.[33] The certificate referred to is that document issued by the Register of Deeds known as the TCT. In contrast, the title referred to by law means ownership which is, more often than not, represented by that document.[34] Petitioner apparently confuses title with the certificate of title. Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used.[35]

Moreover, placing a parcel of land under the mantle of the Torrens system does not mean that ownership thereof can no longer be disputed. Ownership is different from a certificate of title, the latter only serving as the best proof of ownership over a piece of land. The certificate cannot always be considered as conclusive evidence of ownership.[36] In fact, mere issuance of the certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership with persons not named in the certificate, or that the registrant may only be a trustee, or that other parties may have acquired interest over the property subsequent to the issuance of the certificate of title.[37] Needless to say, registration does not vest ownership over a property, but may be the best evidence thereof.

Finally, as to whether respondent's assent to the initial partition agreement serves as an admission against interest, in that the respondent is deemed to have admitted the existence of co-ownership between him and petitioner, we rule in the negative.

An admission is any statement of fact made by a party against his interest or unfavorable to the conclusion for which he contends or is inconsistent with the facts alleged by him.[38] Admission against interest is governed by Section 26 of Rule 130