

FIRST DIVISION

[G.R. No. 157150, September 21, 2011]

**PEDRO ANGELES, REPRESENTED BY ADELINA T. ANGELES,
ATTORNEY-IN FACT, PETITIONER, VS. ESTELITA B. PASCUAL,
MARIA THERESA PASCUAL, NERISSA PASCUAL, IMELDA
PASCUAL, MA. LAARNI PASCUAL AND EDWIN PASCUAL,
RESPONDENTS.**

R E S O L U T I O N

BERSAMIN, J.:

Under appeal is the decision promulgated on January 31, 2002 in CA- G.R. CV No. 61600,^[1] which involved a dispute about the true location of the respective lots of the parties, with the respondents claiming that the petitioner had encroached on their lot but the latter denying the encroachment.

Antecedents

Neighbors Regidor Pascual (Pascual) and Pedro Angeles (Angeles) were registered owners of adjacent parcels of land located in Cabanatuan City. Pascual owned Lot 4, Block 2 (Lot 4) of the consolidation-subdivision plan (LRC) Psd-951, a portion of the consolidation of Lots 1419-B-2B-3, 1419-B-2-B-4 and 1419-B-2-B-5, Psd- 9016, LGC (GLRO) Cadastral Record No. 94 covered by Transfer Certificate Title No. T-43707 of the Registry of Deeds of Nueva Ecija;^[2] Angeles owned Lot 5, Block 2 (Lot 5) of the same consolidation-subdivision plan covered by TCT No. T-9459 of the Registry of Deeds of Nueva Ecija.^[3] Each of them built a house on his respective lot, believing all the while that his respective lot was properly delineated. It was not until Metropolitan Bank and Trust Company (Metrobank), as the highest bidder in the foreclosure sale of the adjacent Lot 3, Block 2 (Lot 3), caused the relocation survey of Lot 3 that the geodetic engineer discovered that Pascual's house had encroached on Lot 3. As a consequence, Metrobank successfully ejected Pascual.

In turn, Pascual caused the relocation survey of his own Lot 4 and discovered that Angeles' house also encroached on his lot. Of the 318 square meters comprising Lot 4, Angeles occupied 252 square meters, leaving Pascual with only about 66 square meters. Pascual demanded rentals for the use of the encroached area of Lot 4 from Angeles, or the removal of Angeles' house. Angeles refused the demand. Accordingly, Pascual sued Angeles for recovery of possession and damages in the Regional Trial Court (RTC) in Cabanatuan City.

In the course of the trial, Pascual presented Clarito Fajardo, the geodetic engineer who had conducted the relocation survey and had made the relocation plan of Lot 4.^[4] Fajardo testified that Angeles' house was erected on Lot 4. On the other hand, Angeles presented Juan Fernandez, the geodetic engineer who had prepared the sketch plan relied upon by Angeles to support his claim that there had been no

encroachment.^[5] However, Fernandez explained that he had performed only a "table work," that is, he did not actually go to the site but based the sketch plan on the descriptions and bearings appearing on the TCTs of Lot 4, Lot 5 and Lot 6; and recommended the conduct of a relocation survey.^[6]

In its decision of November 3, 1998,^[7] the RTC held that there was no dispute that Pascual and Angeles were the respective registered owners of Lot 4 and Lot 5; that what was disputed between them was the location of their respective lots; that Pascual proved Angeles' encroachment on Lot 4 by preponderant evidence; and that Pascual was entitled to relief. The RTC thus disposed:

WHEREFORE, premises considered, judgment is rendered in favor of the plaintiff and against the defendant as follows:

- 1) ordering the defendant or persons claiming right through him to cause the removal of his house insofar as the same occupies the portion of Lot 4, Block 2 (TCT No. T-43707), of an area of 252 square meters, as particularly indicated in the Sketch Plan (Exhibit C-1); and
- 2) and without pronouncement to damages in both the complainant and counterclaim.

With Costs.

SO ORDERED.^[8]

Angeles appealed to the CA.

On January 31, 2002, the CA affirmed the RTC,^[9] and held that as between the findings of the geodetic engineer (Fajardo) who had actually gone to the site and those of the other (Fernandez) who had based his findings on the TCTs of the owners of the three lots, those of the former should prevail. However, the CA, modifying the RTC's ruling, applied Article 448 of the *Civil Code* (which defined the rights of a builder, sower and planter in good faith). The decision decreed thus:^[10]

WHEREFORE, the decision appealed from is MODIFIED. Plaintiffs-appellees are ordered to exercise within thirty (30) days from the finality of this decision their option to either buy the portion of defendant-appellant's house on their Lot. No. 4, or to sell to defendant-appellant the portion of their land on which his house stands. If plaintiffs-appellees elect to sell the land or buy the improvement, the purchase price must be at the prevailing market price at the time of payment. If buying the improvement will render the defendant-appellant's house useless, then plaintiffs-appellees should sell the encroached portion of their land to defendant-appellant. If plaintiffs-appellees choose to sell the land but defendant-appellant is unwilling or unable to buy, then the latter must vacate the subject portion and pay reasonable rent from the time

plaintiffs-appellees made their choice up to the time they actually vacate the premises. But if the value of the land is considerably more than the value of the improvement, then defendant-appellant may elect to lease the land, in which case the parties shall agree upon the terms of the lease. Should they fail to agree on said terms, the court of origin is directed to fix the terms of the lease. From the moment plaintiffs-appellees shall have exercised their option, defendant-appellant shall pay reasonable monthly rent up to the time the parties agree on the terms of the lease or until the court fixes such terms. This is without prejudice to any future compromise which may be agreed upon by the parties.

SO ORDERED.

Angeles expectedly sought reconsideration, but the CA denied his motion on February 13, 2003.

Issues

Hence, Angeles appeals, assailing: (a) the credence the CA accorded to the testimony and relocation plan of Fajardo as opposed to the survey plan prepared by Fernandez; and (b) the options laid down by the CA, *i.e.*, for Pascual either to buy the portion of Angeles' house or to sell to Angeles the portion of his land occupied by Angeles were contrary to its finding of good faith.

Ruling

The petition lacks merit.

I

The Court, not being a trier of facts, cannot review factual issues

Section 1, Rule 45 of the *Rules of Court* explicitly states that the petition for review on *certiorari* "shall raise only questions of law, which must be distinctly set forth." In appeal by *certiorari*, therefore, only questions of law may be raised, because the Supreme Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial. The resolution of factual issues is the function of lower courts, whose findings thereon are received with respect and are binding on the Supreme Court subject to certain exceptions.^[11] A question, to be one of law, must not involve an examination of the probative value of the evidence presented by the litigants or any of them. There is a question of law in a given case when the doubt or difference arises as to what the law is on certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts.^[12]

Whether certain items of evidence should be accorded probative value or weight, or should be rejected as feeble or spurious; or whether or not the proofs on one side or the other are clear and convincing and adequate to establish a proposition in issue; whether or not the body of proofs presented by a party, weighed and analyzed in relation to contrary evidence submitted by adverse party, may be said to be strong, clear and convincing; whether or not certain documents presented by one side