

SECOND DIVISION

[G.R. No. 158385, February 12, 2010]

**MODESTO PALALI, PETITIONER, VS. JULIET AWISAN,
REPRESENTED BY HER ATTORNEY-IN-FACT GREGORIO AWISAN,
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

A person occupying a parcel of land, by himself and through his predecessors-in-interest, enjoys the presumption of ownership. Anyone who desires to remove him from the property must overcome such presumption by relying solely on the strength of his claims rather than on the weakness of the defense.

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assails the September 27, 2002 Decision^[2] and the April 25, 2003 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 52942. The challenged Decision disposed as follows:

WHEREFORE, premises considered, the assailed decision of the trial court dated May 24, 1996 is hereby **REVERSED AND SET ASIDE** and a new one is entered:

1. Awarding the subject land in favor of the [respondent] with the exclusion of the area where the residential house of the [petitioner] is erected.
2. Ordering the [petitioner] to vacate the rootcrop land and surrender its possession in favor of the [respondent], and enjoining the [petitioner] to refrain from doing any act disturbing the [respondent's] peaceful possession and enjoyment of the same.
3. Cancelling Tax Declaration No. 31297 of the [petitioner] insofar as the rootcrop land of .0648 hectares is concerned, with the exclusion of his residential land. All other reliefs and remedies prayed for are **DENIED**, there being no sufficient evidence to warrant granting them.

SO ORDERED.^[4]

Factual Antecedents

Respondent Juliet Awisan claimed to be the owner^[5] of a parcel of land in Sitio

Camambaey, Tapapan, Bauko, Mountain Province, allegedly consisting of 6.6698 hectares^[6] and covered by Tax Declaration No. 147 in her name.^[7] On March 7, 1994, she filed an action for quieting of title against petitioner Modesto Palali, alleging that the latter occupied and encroached on the *northern portion* of her property and surreptitiously declared it in his name for tax purposes.^[8] We shall refer to this land occupied by petitioner, which allegedly encroached on the northern portion of respondent's 6.6698-hectare land, as the "*subject property*". Respondent prayed to be declared the rightful owner of the northern portion, for the cancellation of petitioner's tax declaration, and for the removal of petitioner and his improvements from the property.^[9]

Respondent's (Plaintiff's) Allegations

According to respondent, the 6.6698 hectare land was originally owned by her father, Cresencio Cadwising. The latter testified that he and his wife were able to consolidate ownership over the land by declaring them from public land as well as by purchasing from adjoining landowners. He admitted including in his tax declaration a communal sacred lot (*patpatayan*) even if he did not acquire free patent title over the same. As for the properties he bought, these were generally purchased without any documentation, save for two.^[10]

Cadwising also claimed having introduced improvements on the subject property as early as the 1960s.^[11] The 6.6698 hectare land was mortgaged to the Development Bank of the Philippines (DBP), which acquired it in the foreclosure sale. DBP then sold the land to one Tico Tibong, who eventually donated the same to respondent.

Petitioner's (Defendant's) Allegations

In his defense, petitioner denied the encroachment and asserted ownership over the subject property. He maintained that he and his ancestors or predecessors-in-interest have openly and continuously possessed the subject land since time immemorial. He and his siblings were born on that land and, at that time, the area around the house was already planted with bananas, *alnos*, and coffee.^[12] When his mother died, he buried her in the lot beside the house in 1975; while his father was buried near the same plot in 1993.^[13] His own home had been standing on the property for the past 20 years. Petitioner insisted that during this entire time, no one disturbed his ownership and possession thereof.^[14]

Sometime in 1974, petitioner declared the said land in his name for taxation purposes.^[15] The said Tax Declaration indicates that the property consists of 200 square meters of residential lot and 648 square meters of rootcrop land (or a total of 848 square meters).

Proceedings before the Regional Trial Court

It is worth mentioning that both the complaint^[16] and the pre-trial brief^[17] of respondent alleged encroachment only on the *northern* portion of her 6.6698-hectare land. During trial, however, respondent's attorney-in-fact, Gregorio Awisan,^[18] and respondent's predecessor-in-interest, Cresencio Cadwising,^[19] both *alleged* that there was an encroachment in the *southern* portion also. This was done without

amending the allegations of the complaint.

Confronted with this new allegation of encroachment on the *southern* portion, petitioner tried to introduce his tax declaration over the same (in the name of his deceased father), but was objected to by respondent on the ground of immateriality.

[20] After such objection, however, respondent surprisingly and inconsistently insisted that the ownership of the southern portion was included in the complaint and was an issue in the case. The ensuing confusion over the subject of the case is revealed in the following exchange between the parties' lawyers: [21]

Atty. Where is the land in question located?
Awisan:

Palali: In Tapapan, Bauko, sir.

Atty. Where is that situated in relation to your house?
Awisan:

Palali: It is near my house which is enclosed with fence.

Atty. How about the land in question situated *in the southern*
Awisan: *portion*, do you know that?

Palali: That is the land our parents gave to us as inheritance.
 There are terraces there.

Atty. So, the land in question [is] located below your house
Awisan: and on the southern portion?

Atty. As far as the southern portion is concerned, it is *not*
Bayogan: *included* in the complaint.

Atty. It is included.
Awisan:

Atty. The southern portion refer[s] to Lot 3 and it is not
Bayogan: included in the complaint. *In fact when I started asking*
 question regarding this land, the counsel objected.

Atty. This land indicated as Lot 3 is the southern portion.
Awisan:

The trial court, apparently relying on the allegations of the complaint, ruled on the *northern portion* as the subject property of the case.

Ruling of the Regional Trial Court

After due trial, the Regional Trial Court of Bontoc, Mountain Province, Branch 35, dismissed [22] the complaint. It based its decision on respondent's failure to prove her allegation of physical possession of the land. Going by the results of its ocular inspection [23] of the land in question, the trial court noted that Cadwising

(respondent's predecessor-in-interest) could not pinpoint and the court did not see *any* of the improvements that Cadwising had allegedly introduced to the land.^[24] Thus, the trial court held that respondent's claim of ownership was supported solely by her tax declarations and tax payment receipts which, by themselves, are not conclusive proof of ownership.^[25]

In contrast, the trial court duly verified during the ocular inspection the existence of the improvements introduced by petitioner and his predecessors on the subject property.^[26] Moreover, the trial court observed that the witnesses for the petitioner all lived continuously since their births within or near Sitio Camambaey in Tapapan and that they knew the land very well. They knew petitioner and his predecessors, as well as the improvements introduced by them to the land. Thus, the trial court found that the petitioner presented overwhelming proof of actual, open, continuous and physical possession of the property since time immemorial. Petitioner's possession, coupled with his tax declarations, is strong evidence of ownership which convinced the court of his better right to the property.^[27]

For purposes of clarity, we cite the dispositive portion of the trial court's Decision thus:

Wherefore, premises considered, judgment is hereby rendered in favor of the defendant Modesto Palali and against the plaintiff Juliet C. Awisan, represented by her Attorney-in-Fact, Gregorio B. Awisan, as follows:

- a) Ordering the dismissal of the complaint and costs against the plaintiff;
- b) Adjudging the defendant Modesto Palali as the owner and lawful possessor *of the subject property*; and
- c) The court cannot however grant the counterclaim of defendant for lack of evidence to prove the same.

SO ORDERED.^[28]

Ruling of the Court of Appeals

Respondent appealed the trial court's decision to the CA, which reversed the same. The CA found that petitioner failed to prove actual possession of the *entire* 6.6698 hectare land, which the CA believed to be the subject of the case. According to the appellate court, petitioner was only able to prove actual occupation of the portion where his house was located and the area below where he had planted fruit-bearing plants.^[29]

The CA also ruled that based on the ocular inspection report of the trial

court, petitioner's possession did not extend to the entire 6.6698 hectares. In its own words:

Likewise, the report on the ocular inspection of the land in question divulges that the alleged possession of the land by [petitioner] Modesto Palali does not extend to the entire 6.6698 hectares of the subject land. Not even in the sketch plan of the land does it illustrate that the possession of the [petitioner] refers to the entire subject land. Instead, the possession of [petitioner] merely points to certain portions of the subject land as drawn and prepared by the tax mappers.

From the foregoing testimony, no sufficient indicia could be inferred that the possession of the [petitioner] refers to the entire portion of the land.

[30]

The appellate court also refused to give credence to petitioner's tax declaration. The CA held that petitioner's Tax Declaration No. 31793, which covers only an 848-square meter property, is incongruous with his purported claim of ownership over the entire 6.6698-hectare land.

Proceeding from this premise, the CA gave greater weight to the documentary and testimonial evidence of respondent. The presumption of regularity was given to the public documents from which respondent traced her title to the subject property.

Thus, the CA awarded the entire 6.6698-hectare property to respondent and ordered the cancellation of petitioner's tax declaration (except for the 200-square meter residential lot thereof which was not being claimed by respondent).^[31]

Petitioner moved for a reconsideration of the unfavorable Decision, but his motion was denied for lack of merit.

Hence, this petition.

Preliminary Matter

The CA Decision is based on a mistaken understanding of the subject property

It is apparent that the CA Decision proceeded from an erroneous understanding of what the subject property actually is and what the trial court actually ruled upon. The CA was under the mistaken impression that the subject property was the *entire* 6.6698 hectares of land allegedly owned by respondent under her Tax Declaration No. 147. Because of this, the CA ruled against petitioner on the ground that he failed to prove possession of the *entire* 6.6698 hectares. The CA also disregarded petitioner's Tax Declaration No. 31793 (despite being coupled with actual possession) because the said tax declaration covered only an 848-square meter property and did not cover the *entire* 6.6698 hectare property. This is clear from the following text lifted from the CA Decision:

The trial court's finding that the defendant-appellee had acquired the subject land by virtue of acquisitive prescription cannot be countenanced. At the outset, *the subject land being claimed by the plaintiff-appellant as described in the complaint is the 6.6698 hectares land [boundaries omitted]*. The said description is with the exclusion of the portion of land