

THIRD DIVISION

[G.R. No. 179540, March 13, 2009]

PERFECTA CAVILE, JOSE DE LA CRUZ AND RURAL BANK OF BAYAWAN, INC., PETITIONERS, VS. JUSTINA LITANIA-HONG, ACCOMPANIED AND JOINED BY HER HUSBAND, LEOPOLDO HONG AND GENOVEVA LITANIA, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before us is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, which seeks to reverse and set aside the Decision^[2] dated 8 March 2007 and the Resolution^[3] dated 3 September 2007 of the Court of Appeals in CA-G.R. CV No. 66873. The assailed Decision of the appellate court reversed and set aside the Decision^[4] dated 29 February 2000 of the Regional Trial Court (RTC) of Negros Oriental, Branch 35, in Civil Case No. 6111, dismissing the complaint of respondents Justina Litania-Hong, her husband Leopoldo Hong, and her sister Genoveva Litania; and declaring petitioner spouses Perfecta Cavile and Jose de la Cruz to be the absolute owners of the parcels of land subjects of this case. The assailed Resolution of the appellate court denied petitioner spouses' Motion for Reconsideration of its decision.

The factual and procedural antecedents of the case proceed as follows:

On 5 April 1937, a **Deed of Partition**^[5] was entered into by the heirs of the spouses Bernardo Cavile and Tranquilina Galon. Said heirs included the legitimate children of Bernardo and Tranquilina, namely, (1) Susana Cavile, (2) Castor Cavile, and (3) Benedicta Cavile; as well as the children of Bernardo by his previous marriages, specifically: (4) Simplicia Cavile, (5) Fortunato Cavile, and (6) Vevencia Cavile.^[6] Subject of the Deed of Partition were several parcels of land situated in the Municipality of Tolong, Negros Oriental, which were then covered by Tax Declarations No. 5615, No. 5729, No. 7143, No. 7421 and No. 7956, all under the name of Bernardo.

Of particular interest in this case are the lots covered by **Tax Declarations No. 7421 and No. 7956**. The lot covered by Tax Declaration No. 7421 was described in the Deed of Partition as "bounded on the North by Simplicio Cavile antes Roman Echaves, on the East by Rio Bayawan, on the South by Riachuelo Napasu-an, and on the West by Riachuelo Napasu-an y Julian Calibug antes Francisco Tacang." The lot covered by Tax Declaration No. 7956 was identified to be the one "bounded on the North by Hilario Navaro, on the East by Silverio Yunting, on the South by Fortunato Cavile, and on the West by Maximiano Balasabas."

In accordance with the Deed of Partition, the conjugal properties of Bernardo and

Tranquilina were divided into two parts. The first part, corresponding to Bernardo's share, was further divided into six equal shares and distributed among his six heirs. The second part, corresponding to Tranquilina's share, was subdivided only into three shares and distributed among her children with Bernardo, *i.e.*, Susana, Castor, and Benedicta.

Also stated in the Deed of Partition was the sale by the other aforementioned legal heirs to their co-heir Castor of their aliquot shares in the lots covered by Tax Declarations No. 7143, No. 7421, and No. 7956; thus, making Castor the sole owner of the said properties. Similarly, the Deed of Partition acknowledged the sale by all the legal heirs to Ulpiano Cavile of their respective shares in the lot covered by Tax Declaration No. 5729, thus, transferring to the latter absolute ownership of said parcel of land.

Thereafter, on 5 August 1960, Castor and Susana executed a **Confirmation of Extrajudicial Partition**,^[7] whereby Castor recognized and confirmed that the lots covered by **Tax Declarations No. 2039 and No. 2040** were the just and lawful shares of Susana in the properties left by their deceased parents Bernardo and Tranquilina, and that Susana was in actual possession of the said properties. According to the Confirmation of Extrajudicial Partition, the lot covered by Tax Declaration No. 2039 was "bounded on the North by Simplicio Cavile, on the East by Rio Bayawan, on the South by Napasu-an, and on the West by Napasu-an Creek and Julian Calibog;" while the one covered by Tax Declaration No. 2040 was "bounded on the North by Hilario Navvaro (sic), on the South by Fortunato Cavile, on the East by Silverio Yunting, and on the West by Maximino (sic) Balasabas."

The descriptions of the lots covered by Tax Declarations No. 2039 and No. 2040 in the Confirmation of Extrajudicial Partition were strikingly close to those of the lots covered by Tax Declarations No. 7421 and No. 7956, respectively, in the Deed of Partition.

Fourteen years after the execution of the Confirmation of Extrajudicial Partition in 1960, respondents filed on 23 December 1974 a Complaint for Reconveyance and Recovery of Property with Damages before the RTC against Perfecta Cavile, the daughter of Castor, Jose de la Cruz, the husband of Perfecta (hereinafter petitioner spouses), and the Rural Bank of Bayawan, Inc. The Complaint was docketed as Civil Case No. 6111.^[8]

Respondents averred in the Complaint that respondents Justina and Genoveva inherited two parcels of land, covered by **Tax Declarations No. 07408 and No. 07409** (subject lots),^[9] from their mother Susana, who, in turn, inherited the same from her parents Bernardo and Tranquilina. Respondents invoked the Confirmation of Extrajudicial Partition dated 5 August 1960 wherein Castor purportedly recognized Susana's ownership of the subject lots. Susana had enjoyed undisputed ownership and possession of the subject lots, paying the realty taxes due and introducing improvements thereon. Susana was even able to obtain a loan from the Rural Bank of Dumaguete City sometime in 1960, mortgaging the subject lots as security for the same.

After Susana's death in 1965, the subject lots were inherited by her daughters, respondents Justina and Genoveva, who then assumed the mortgage thereon.

However, respondents alleged that Castor and petitioner spouses eventually intruded upon and excluded respondents from the subject lots. When Castor died in 1968, petitioner spouses continued their unlawful occupancy of the subject lots, planting on the same and harvesting the products. Respondents claimed that they exerted efforts to settle the matter, but petitioner spouses stubbornly refused to accede. In 1974, prior to the filing of the Complaint, respondents again sought an audience with petitioner spouses, yet the latter only presented to them the Original Certificates of Title (OCTs) No. FV-4976,^[10] No. FV-4977,^[11] and No. FV-4978^[12] covering the subject lots, issued by the Registry of Deeds for the Province of Negros Oriental, on 9 October 1962, in the name of petitioner Perfecta. Respondents were, thus, constrained to institute Civil Case No. 6111 against petitioner spouses and the Rural Bank of Bayawan, Inc., seeking the cancellation of the OCTs in the name of petitioner Perfecta or, alternatively, the reconveyance by petitioner spouses of the subject lots to respondents, plus award for damages. The Rural Bank of Bayawan, Inc. was impleaded as a defendant in the Complaint since petitioner spouses mortgaged the subject lots in its favor as security for a loan in the amount of P42,227.50. However, the bank was later dropped as a party after the aforesaid loan was settled.

Petitioner spouses countered in their Answer to the Complaint that, by virtue of the Deed of Partition dated 5 April 1937, the heirs of both Bernardo and Tranquilina took exclusive possession of their respective shares in the inheritance. Castor fully possessed the lots covered by Tax Declarations No. 7143, No. 7421 and No. 7956, after his co-heirs sold to him their shares therein. In 1962, Castor sold to petitioner Perfecta the lots covered by Tax Declarations No. 7421 and No. 7956, which corresponded to the subject lots in the Complaint. Following the sale, petitioner Perfecta took possession of the subject lots and filed with the Bureau of Lands an application for the issuance of title over the same. The Bureau issued free patent titles over the subject lots in favor of petitioner Perfecta and, by virtue thereof, she was able to secure on 9 October 1962, OCTs No. FV-4976, No. FV-4977, and No. FV-4978 in her name.

Petitioner spouses asserted that the Confirmation of Extrajudicial Partition dated 5 August 1960 involving the subject lots was a nullity since said properties were never owned nor adjudicated in favor of Susana, respondents' predecessor-in-interest. Castor and Susana executed the Confirmation of Extrajudicial Partition merely to accommodate the latter who then needed security for the loan she was trying to obtain from the Rural Bank of Dumaguete City. Respondents would not be able to deny the said accommodation arrangement, given that neither Susana nor respondents actually possessed the subject lots or applied for titles thereto. Respondents did not even know that the subject lots were divided into three lots after a Government survey. If Susana and respondents paid realty taxes for the subject lots, it was only to convince the Rural Bank of Dumaguete to renew their loan from year to year, secured as it was by the mortgage on the subject lots. Thus, petitioner spouses posited that no ownership could then be transferred to respondents after Susana's death.

Trial in Civil Case No. 6111 thereafter ensued before the RTC.^[13]

On 29 February 2000, the RTC promulgated its Decision, with the following dispositive portion:

WHEREFORE, premises considered, judgment is hereby rendered declaring [herein petitioner spouses] as the absolute owners over the parcels of land in litigation. Consequently, [herein respondents'] complaint is ordered dismissed. [Respondents'] counterclaim is likewise entered dismissed for lack of merit.^[14]

The RTC ruled that the petitioner spouses' evidence was more worthy of credence in establishing their ownership of the subject lots. As petitioner Perfecta testified before the RTC, Castor immediately took possession of the subject lots after the Deed of Partition was executed in 1937. This fact was supported by the unrebutted testimony of Luciana Navarra, petitioner Perfecta's cousin, who declared that her husband was petitioner Perfecta's tenant on the subject lots since 1947 and that respondents never actually occupied the said properties. The RTC observed that it was highly questionable and contrary to human experience that respondents waited nine long years after their ejection from the subject lots in 1965 before taking any legal step to assert their rights over the same.

The RTC further subscribed to the testimony of Perfecta that the Confirmation of Extrajudicial Partition was executed by Castor solely to accommodate Susana, enabling her to obtain a bank loan using the subject lots as collateral. It noted that Susana did not bother to apply for the issuance of title to the subject lots in her name. Contrarily, it was Perfecta who applied for and obtained title to the subject lots, which, surprisingly, respondents were not even aware of. The RTC found that the contemporaneous and subsequent acts of the parties after the execution of the Confirmation of Extrajudicial Partition evidently demonstrated their intention to merely accommodate Susana in her loan application. Hence, the RTC concluded that the Confirmation of Extrajudicial Partition was a simulated contract which was void and without any legal effect.

Without seeking a reconsideration of the above RTC Decision, respondents challenged the same by way of appeal before the Court of Appeals, docketed as CA-G.R. CV No. 66873.

On 8 March 2007, the Court of Appeals rendered the assailed Decision in favor of respondents, the decretal portion of which provides:

WHEREFORE, the assailed decision is **REVERSED AND SET ASIDE** and a new one entered **ORDERING** [herein petitioner spouses] and/or their heirs, assigns and representatives as follows:

1. To reconvey to [herein respondents] the possession and title to the litigated parcels of land.
2. Upon reconveyance of the litigated properties, the Register of Deeds of Dumaguete City is ordered to cancel Certificate of Title No. 4877 (sic), 4976 and 4978 and to issue a new certificate to [respondents] or their successors in interest.
3. With costs against [petitioner spouses].^[15]

The Court of Appeals agreed in the respondents' contention that the Confirmation of Extrajudicial Partition was not a simulated document. The said document should be entitled to utmost respect, credence, and weight as it was executed by and between parties who had firsthand knowledge of the Deed of Partition of 1937. Moreover, the Confirmation of Extrajudicial Partition constituted evidence that was of the highest

probative value against the declarant, Castor, because it was a declaration against his proprietary interest. Other than petitioner Perfecta's testimony, the appellate court found no other proof extant in the records to establish that the Confirmation of Extrajudicial Partition was a simulated document or that it did not express the true intent of the parties. The Court of Appeals likewise highlighted the fact that Castor did not attempt to have the subject lots declared in his name during his lifetime and that petitioner Perfecta herself admitted that she only started paying real estate taxes for the subject lots in 1993. It was Susana and, later, her children, respondents Justina and Genoveva, who had been paying for the realty taxes on the subject lots since 1937.

Petitioner spouses filed a Motion for Reconsideration^[16] of the foregoing Decision, but it was denied by the Court of Appeals in a Resolution^[17] dated 3 September 2007.

Petitioner spouses filed the instant Petition, raising the following issues for the Court's consideration:

I.

WHETHER [OR NOT] THE HONORABLE COURT OF APPEALS ACTED IN ACCORDANCE WITH LAW IN RULING THAT EXTRANEOUS EVIDENCE IN THE FORM OF AN AFFIDAVIT, THE "CONFIRMATION OF EXTRAJUDICIAL PARTITION," MAY BE ADMITTED IN EVIDENCE TO VARY THE TERMS OF A JUDICIALLY DECLARED VALID AGREEMENT ENTITLED "DEED OF PARTITION"?

II.

WHETHER [OR NOT] THE HONORABLE COURT OF APPEALS COMMITTED A LEGAL ERROR IN NOT DISMISSING THE COMPLAINT ON THE GROUND OF *RES JUDICATA*?

III.

WHETHER [OR NOT] THE COMPLAINT FILED BY THE RESPONDENTS SHOULD BE DISMISSED ON THE GROUND OF FORUM-SHOPPING?

IV.

WHETHER [OR NOT] THE FREE PATENT TITLES ISSUED TO THE PETITIONERS MAY BE RECONVEYED TO THE RESPONDENTS?^[18]

Essentially, the Court finds that the fundamental issue that must be settled in this case is who, among the parties herein, have the better right to the subject lots.

The Court notes prefatorily that in resolving the present case, an examination of the respective evidence of the parties must necessarily be undertaken. Although the jurisdiction of the Court in a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to reviewing only errors of law, we find that an exception^[19] to this rule is present in the instant case in that the Court of Appeals made findings of fact which were contrary to those of the RTC.