

## THIRD DIVISION

[ G.R. NO. 148014, December 05, 2006 ]

**SPOUSES ANTONIO VIZARRA AND BRENDA LOGATOC VIZARRA,  
TOMAS VIZARRA, JESUS PASTORAL, AND MIGUEL RICAFRANCA,  
PETITIONERS, VS. CONCHITA R. RODRIGUEZ AND EVELYN R.  
RODRIGUEZ, RESPONDENTS.**

### D E C I S I O N

**TINGA, J.:**

In this Petition for Review on Certiorari<sup>[1]</sup> under Rule 45 of the 1997 Rules of Civil Procedure, petitioners assail the Decision<sup>[2]</sup> dated 30 April 2001 of the Court of Appeals, Eighth Division, in CA-G.R. CV No. 38286 which affirmed *in toto* the Decision<sup>[3]</sup> dated 27 July 1991 of the Regional Trial Court (RTC) of Marinduque, Branch 38, in Civil Case No. 84-2.

The antecedent facts involve two separate cases principally involving the same parcels of land and the same parties or their predecessors-in-interest. The first case, terminated way back in 1977, involved an action for recovery of possession of real property where it was eventually ruled that respondent Conchita R. Rodriguez (Conchita) is the owner of a parcel of land located in Bangwain, Torrijos, Marinduque, one of the subject properties of this petition. The second case, now before us for review, concerns a subsequent trial court decision, rendered in 1991, and enjoining petitioners from appropriating the fruits thereof, otherwise exercising acts of ownership over the land previously awarded to Conchita and another property owned in common by respondents and which was usurped by petitioners. <sup>[4]</sup> Said decision likewise nullified a purported sale of the subject parcels of land in favor of petitioners. It is the incidents surrounding this sale, arising as it did from a levy and auction by the Provincial Assessor of Marinduque for non-payment of real property taxes, that provide this petition with some academic interest.

The details follow.

The first case stemmed from a Complaint<sup>[5]</sup> filed on 31 August 1962 before the then Court of First Instance (CFI) of Boac, Marinduque by Manuel Vizarra (Manuel) against Conchita. The complaint, docketed as Civil Case No. 1245, was for recovery of possession of real property. Manuel narrated in his complaint that he was the owner of an unregistered parcel of land located at Barrio Bangwain, Torrijos, Marinduque. At the time of the institution of the complaint, the subject lot had not yet been surveyed but the alleged boundaries were embodied in Tax Declaration No. 5206 in his name. <sup>[6]</sup>

Manuel further asserted that in 1937, he and Conchita's late husband, Atty. Clemente Rodriguez (Atty. Rodriguez), allegedly entered into a bilateral written

agreement allowing the latter to enter the land for purposes of locating mineral deposits therein. Subsequently, but prior to the Japanese occupation period, Atty. Rodriguez had started to raise cattle on the western portion of the land instead, and had even constructed a fence on the southern side of Manuel's land. Atty. Rodriguez died during the Japanese occupation, but his widow illicitly retained possession of the land and appropriated the fruits of the fruit-bearing trees.<sup>[7]</sup>

Answering the complaint, Conchita asserted ownership over the 57,000 square meter (sq. m.) property, which was then covered by Tax Declaration No. 4570<sup>[8]</sup> in the name of her deceased father, Vicente Rosales. She added that on 12 April 1950, Manuel had ceased to be the lawful owner of most of the land described in Tax Declaration No. 5206<sup>[9]</sup> when he voluntarily subdivided the land described under Tax Declaration No. 5206 between him and his seven (7) children,<sup>[10]</sup> who were then in possession of their respective shares of the land.<sup>[11]</sup>

The dispute was referred by the CFI to court-appointed commissioners who then submitted a report ascertaining, among others, that the boundaries of the land were:

On the northern part of the land is the property of Manuel Vizarra, on the West-brook; East Brook and on the South is Bangwain river.<sup>[12]</sup>

That particular conclusion proved material to the disposition of the first complaint. For on 19 November 1963, Manuel caused the consolidation of the eight (8) tax declarations of the Vizarras into a single Tax Declaration No. 8494 in his name. Notably, the boundaries as stated in the new tax declaration were different from those ascertained by the commissioners.<sup>[13]</sup>

On 16 November 1977, the CFI of Marinduque ruled in favor of Conchita, finding that the latter was indeed the true owner of the disputed land. The CFI noted the disparity of the boundaries of the tax declarations Manuel initially presented in court and, how by "sleigh-of-the-hand improvisation," the location of the land, as indicated in the 1963 tax declaration, was changed in order to encompass Conchita's property.<sup>[14]</sup>

After the decision of the CFI became final and executory, a writ of execution,<sup>[15]</sup> and, subsequently, an alias writ of execution<sup>[16]</sup> were issued ordering petitioners to refrain from entering the disputed property. In the interim, Manuel died and was substituted by his heirs, including the present petitioners.

Then in 1984, Conchita, joined by her daughter Evelyn, filed an action for injunction and damages with a prayer for a writ of preliminary injunction before the RTC of Boac, Marinduque, Branch 38. The second case, docketed as Civil Case No. 84-2, saw respondents asserting absolute ownership over two (2) parcels of land,<sup>[17]</sup> one of which was the subject property in the first case, located at Bangwain, Torrijos, Marinduque. Even as Conchita's ownership was acknowledged by the CFI in the 1977 decision over one of the parcels of land, it was alleged that petitioners, along with twenty other persons, repeatedly entered the subject properties, harvested coconuts to be processed into copra and appropriated the fruits to themselves.<sup>[18]</sup>

Petitioners, on the other hand, narrated that the subject properties were actually purchased by petitioner spouses Antonio and Brenda Vizarra from the provincial government of Marinduque in a public auction sale conducted on 24 April 1979, which became final one year after. They presented in court the Final Bill of Sale executed on 14 May 1980, evidencing their claim over the subject properties.<sup>[19]</sup> It appeared that the auction sale was conducted at the instance of the Provincial Assessor of Marinduque, for real estate tax delinquency. Interestingly, the auction sale resulted from the failure of Manuel to pay the real property taxes, even though the CFI had ruled that it was Conchita Rodriguez who had actually owned one of the subject properties.<sup>[20]</sup>

On 27 July 1991, the RTC rendered its assailed decision, finding that the parcels of land in dispute were owned by respondent Conchita. In doing so, it established the following scenario:

(a) In 1963, Manuel subdivided the property described in Tax Declaration No. 5206 into eight (8) unequal parts, between himself and his children. Afterwards, but prior to the rendition of the CFI decision in 1977, Manuel consolidated anew the subdivided properties into one tax declaration (Tax Declaration No. 8494). The boundaries as stated in this new tax declaration, however, had been altered to encompass the properties of Conchita, Parcel No. I, subject of Civil Case No. 1245, and Parcel No. II. <sup>[21]</sup>

(b) Tax Declaration No. 8494 was later replaced by Tax Declaration No. 195 and subsequently, Tax Declaration No. 176, all in Manuel's name, and again improperly encompassing Conchita's properties. Manuel did not pay for the taxes on the properties subject of the tax declarations, prompting the provincial government of Marinduque to send notices of auction sale to sell the lot under Tax Declaration No. 176. The properties were then purchased at the auction sale by petitioners Antonio and Brenda Vizarra (Brenda), Antonio being a grandson of Manuel. <sup>[22]</sup>

(c) However, the properties covered by Tax Declaration No. 176 and subsequently sold on auction by the provincial government include the same property which the CFI had determined in 1977 as that of Conchita Rodriguez. Moreover, the same property and the other property also subject of this case were declared in the name of Conchita's daughter, Evelyn, in Tax Declaration No. 10178 and Tax Declaration No. 9792. <sup>[23]</sup> The RTC considered the foregoing as an *indicium* of the bad faith attending the acts of Manuel and petitioners in seeking to obtain ownership over the subject properties.

Petitioners appealed the RTC Decision to the Court of Appeals. The Court of Appeals agreed with the conclusions and affirmed *in toto* the judgment of the RTC. Hence, this petition.

Petitioners come before the Court questioning essentially the findings of facts of both RTC and CA on the ownership of the subject parcels of land. Petitioners maintain that the land they entered were not the properties of Conchita and aver that they had bought the same in good faith.

Brenda likewise admits having received two (2) notices of delinquency sale of different dates—the first one addressed to her husband Antonio Vizarra (Antonio)

and Concepcion Rodriguez (referring to respondent Conchita), in the alternative; and the second notice addressed to her uncle, Antero Vizarra (Antero) and Concepcion Rodriguez, in the alternative. However, she states that the respondents did not forward the notices to Conchita Rodriguez in the belief that the latter was furnished copies of the same by the provincial assessor's office. It is further claimed that petitioners had consulted Atty. Eduardo Mirafuente (Atty. Mirafuente), the CFI clerk of court, regarding the propriety of bidding therein. Atty. Mirafuente had said that the property to be auctioned off covered the same land litigated in Civil Case No. 1245, but he nonetheless gave them the go-signal to participate in the bidding.  
[24]

As a rule, questions of facts are not to be entertained in this jurisdiction. Both the RTC and the Court of Appeals are in agreement as to the particulars of the case. In such a circumstance, the rule is that their findings on the facts will not be disturbed.  
[25] The 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 of the case considering that the findings of facts of the Court of Appeals are conclusive and binding on the Court.  
[26]

The fundamental issue of this case concerns the identity of the land in dispute. Petitioners would have us believe that the land they had bought at the auction sale did not cover the same land that the CFI of Marinduque adjudicated to respondent Conchita way back in 1977.

The Court is not persuaded.

The evidence on record reveals that the questioned auction sale included the land adjudicated to respondent Conchita by the CFI of Marinduque in Civil Case 1245.

Notably, before the CFI, Manuel, petitioners' predecessor-in-interest, presented two apparently different and conflicting tax declaration certificates *i.e.*, Tax Declaration Nos. 5206 and 8494 bearing totally different boundaries. The CFI of Marinduque had observed in its ruling that this was part of Manuel's scheme to acquire the ownership of a parcel of land which did not belong to him. The CFI decision, not having been contested by Manuel or his heirs, has long become final and executory and is thus binding and conclusive on the petitioners with regard to the ownership of Parcel No. I.  
[27]

Petitioners attempted once more to take the same property when they were furnished a copy of the notice of delinquency sale by the provincial assessor's office of the land in question and Parcel No. II both covered by Tax Declaration No. 176. In evident bad faith Brenda admitted in open court that Antero did not want to pay the delinquency tax as the land included therein, denominated as Parcel No. I, had already been adjudicated to Conchita. Petitioners Antonio and Brenda had known that they bid for the land owned by Conchita and that it was undeniably the land subject of Civil Case No. 1245 which was adjudicated to Conchita. Brenda herself testified as follows:

Q: And your uncle Antero Vizarra also told you that he is not interested in paying the back taxes because that portion of the land of Manuel Vizarra was lost to Conchita Rodriguez or Concepcion Rodriguez in Civil Case No.

1245 and that Mrs. Rodriguez is in possession of the land publicly and that she should pay the taxes, do you remember having told Antero in that manner?

A: My uncle told me that they would not pay the taxes because they lost the case to Mrs. Rodriguez, sir. And the possession of the property was in the hands of Mrs. Rodriguez.

Q: And because of those inquiry of Atty. Mirafuente, it was clear to your mind that the subject matter of the auction sale is that property which was lost to Conchita Rodriguez in Civil Case No. 1245, is it not?

A: Yes, sir.<sup>[28]</sup>

Moreover, by Brenda's own admission, the addressees of the first letter sent by the provincial assessor's office were her husband, Antonio Vizarra and Concepcion Rodriguez, in the alternative. The second notice of delinquency was also telling. It was addressed this time to Antero Vizarra and in the alternative, Concepcion Rodriguez. Thus, by the act of sending the notices of delinquency sale to the two parties, the provincial assessor of Marinduque recognized that there was a single parcel of land claimed by two persons. The only explanation why the provincial assessor sent the notice to the two addressees was he was unsure as to who between the two addressees was the owner of the land.<sup>[29]</sup>

Parenthetically, when the provincial assessor failed to serve a separate notice to Conchita – the true and lawful owner – that her land was to be auctioned off due to non-payment of real estate taxes, he violated Section 73<sup>[30]</sup> of Presidential Decree No. 464, otherwise known as the Real Property Tax Code, which provides that a copy of the notice shall forthwith be sent by registered mail, or by messenger or through the barrio captain to the delinquent taxpayer, at his address shown on the tax record cards or at his residence. The auction sale, therefore, was null and void for non-compliance with the provisions of the Real Property Tax Code on mandatory notice.<sup>[31]</sup>

In any event, the auctioneer in an auction sale does not warrant that the buyer shall, from the time of the sale, have and enjoy the legal and peaceful possession of the property sold.<sup>[32]</sup>

We agree with the findings of the Court of Appeals that there was indeed bad faith imputable to the petitioners. In ruling so, the Court of Appeals said:

The general picture of this case readily shows the bad faith of the defendant-appellees' right from the very start when Manuel Vizarra unscrupulously sub-divided and re-consolidated ownership of the property through various tax declarations together with the unexplained non-payment of real estate tax due thereon. Along with this, there is the RTC's finding that the defendants-appellants did not give the notice of the delinquency sale to the plaintiffs-appellees despite their knowledge that the property of the plaintiffs-appellees were about to be auctioned off. Finally, the fact that during the public auction sale, there was only one bidder, which by no coincidence happened to be Antonio Vizarra,