349 Phil. 275

FIRST DIVISION

[G.R. No. 127549, January 28, 1998]

SPOUSES CESAR AND RAQUEL STA. MARIA AND FLORCERFIDA STA. MARIA, PETITIONERS, VS. COURT OF APPEALS, AND SPOUSES ARSENIO AND ROSLYNN FAJARDO, RESPONDENTS.

D E C I S I O N

DAVIDE, JR., J.:

This is an appeal under Rule 45 of the Rules of Court from the decision[1] of 18 December 1996 of the Court of Appeals in CA-G.R. CV No. 48473, which affirmed with modification the 30 June 1994 Decision[2] of Branch 19 of the Regional Trial Court of Bulacan in Civil Case No. 77-M-92 granting the private respondents a right of way through the property of the petitioners.

The antecedent facts, as summarized by the Court of Appeals, are as follows:

> Plaintiff spouses Arsenio and Roslynn Fajardo are the registered owners of a piece of land, Lot No. 124 of the Obando Cadastre, containing an area of 1,043 square meters, located at Paco, Obando, Bulacan, and covered by Transfer Certificate Title (TCT) No. T-147729 (M) of the Registry of Deeds of Meycauayan, Bulacan (Exhibit "B", p. 153 Orig. Rec.). They acquired said lot under a Deed of Absolute Sale dated February 6, 1992 executed by the vendors Pedro M. Sanchez, et al. (Annex "A", Complaint; pp. 7-8 ibid.).
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> Plaintiff's aforesaid Lot 124 is surrounded by Lot 1 (Psd 45412), a fishpond (Exh. "C-5"; p. 154, ibid.), on the northeast portion thereof; by Lot 126, owned by Florentino Cruz, on the southeast portion; by Lot 6-a and a portion of Lot 6-b (both Psd-297786) owned respectively by Spouses Cesar and Raquel Sta. Maria and Florcerfida Sta. Maria (Exhs. "C-2" and "C-3", ibid.), on the southwest; and by Lot 122, owned by the Jacinto family, on the northwest.
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> On February 17, 1992, plaintiff spouses Fajardo filed a complaint against defendants Cesar and Raquel Sta. Maria or Florcerfida Sta. Maria for the establishment of an easement of right of way. Plaintiffs alleged that their lot, Lot 124, is surrounded by properties belonging to other persons, including those of the defendants; that since plaintiffs have no adequate outlet to the provincial road, an easement of a right of way passing through either of the alternative defendants' properties which are directly abutting the provincial road would be plaintiffs' only convenient, direct and shortest access to and from the provincial road; that plaintiffs' predecessors-in-interest have been passing through the properties of defendants in going to and from their lot; that defendants' mother even

promised plaintiffs' predecessors-in-interest to grant the latter an easement of right of way as she acknowledged the absence of an access from their property to the road; and that alternative defendants, despite plaintiffs' request for a right of way and referral of the dispute to the barangay officials, refused to grant them an easement. Thus, plaintiffs prayed that an easement of right of way on the lots of defendants be established in their favor. They also prayed for damages, attorney's fees and costs of suit.

Defendants, instead of filing an answer, filed a motion to dismiss (pp. 41-45, ibid.) on the ground that the lower court has no jurisdiction to hear the case since plaintiffs failed to refer the matter to the barangay lupon in accordance with Presidential Decree No. 1508. The lower court, however, in its Order dated May 18, 1992, denied said motion on the premise that there was substantial compliance with the law.

On May 25, 1992, defendants filed a "Notice of Appeal" to the Supreme Court of the questioned order of the lower court denying their motion to dismiss, under Rule 45 of the Rules of Court (p. 54, ibid.). On June 24, 1992, the lower court denied the notice of appeal for lack of merit (p. 86, ibid.).

In the meantime, defendants filed a petition for review on certiorari of the lower court's Order dated May 18, 1992 (pp. 64-84, ibid.). In an Order dated July 8, 1992, the Third Division of the Supreme Court denied said petition for failure to comply with Revised Circular Nos. 1-88 and Circular No. 28-01 (p. 97, ibid.). Defendants' motion for reconsideration was likewise denied with finality on July 20, 1992 (p. 96, ibid.).

Consequently, defendants filed their answer to the court below where they alleged that the granting of an easement in favor of plaintiffs would cause them great damage and inconvenience; and that there is another access route from plaintiffs' lot to the main road through the property of Florentino Cruz which was likewise abutting the provincial road and was being offered for sale. By way of counterclaim, defendants prayed for damages and attorney's fees.

The parties not having settled their dispute during the pre-trial (p.120, Orig. Record), the court directed that an ocular inspection be conducted of the subject property, designating the branch clerk of court as its commissioner. In time, an Ocular Inspection Report dated December 3, 1992 (Exhs. "J" and "J-1") was submitted. After trial on the merits, the lower court rendered the assailed decision granting plaintiffs' prayer for an easement of right of way on defendants' properties.[3]

The trial court found that based on the Ocular Inspection Report there was no other way through which the private respondents could establish a right of way in order to reach the provincial road except by traversing directly the property of the petitioners. It further found that (a) no significant structure, save for a wall or fence about three feet high, would be adversely affected; (b) there was sufficient vacant space of approximately 11 meters between petitioners' houses; and (c) petitioners' property could provide the shortest route from the provincial road to the private

respondents' property. Consequently, the trial court granted the easement prayed for by the private respondents in a decision dated 30 June 1994,[4] whose decretal portion reads as follows:

> WHEREFORE, premises considered the Court orders that a right-of-way be constructed on the defendants' property covered by TCT No. 0-6244 of about 75 sq. meters, 25 sq. meters shall be taken from the lot of Florcerfida Sta. Maria and 50 sq. meters from the property of Cesar Sta. Maria to be established along lines 1-2 of lot 6-c and along lines 3-4 of lot 6-b and to indemnify the owners thereof in the total amount of P3, 750.00 (P1, 250.00 goes to Florcerfida Sta. Maria and P2,500.00 to Cesar Sta. Maria) and to reconstruct the fence to be destroyed in the manner it was at the time of the filing of this action.

The petitioners seasonably appealed from the aforementioned decision to the Court of Appeals, which docketed the case as CA-G.R. CV No. 48473.

The Court of Appeals agreed with the trial court that the private respondents had sufficiently established the existence of the four requisites for compulsory easement of right of way on petitioners' property, to wit: (1) private respondents' property was, as revealed by the Ocular Inspection Report, surrounded by other immovables owned by different individuals and was without an adequate outlet to a public highway; (2) the isolation of private respondents' property was not due to their own acts, as it was already surrounded by other immovables when they purchased it; (3) petitioners' property would provide the shortest way from private respondents' property to the provincial road, and this way would cause the least prejudice because no significant structure would be injured thereby; and (4) the private respondents were willing to pay the corresponding damages provided for by law if the right of way would be granted.

Accordingly, in its decision[5] of 18 December 1996, the Court of Appeals affirmed the trial court's decision, but modified the property valuation by increasing it from P50 to P2,000 per square meter.

The petitioners forthwith filed this petition for review on certiorari based on the following assignment of errors:

I.

> WHETHER OR NOT A COMPULSORY EASEMENT OF RIGHT OF WAY CAN BE ESTABLISHED IN THE LIGHT OF THE DOCTRINE LAID DOWN BY THE HON. SUPREME COURT IN COSTABELLA CORPORATION VS. COURT OF APPEALS, 193 SCRA 333, 341 WHICH HELD THAT [FOR] THE FAILURE OF PRIVATE RESPONDENTS TO SHOW THAT THE ISOLATION OF THEIR PROPERTY WAS NOT DUE TO THEIR PERSONAL OR THEIR PREDECESSORS-IN-INTEREST'S OWN ACTS, THEY ARE NOT ENTITLED TO A COMPULSORY EASEMENT OF RIGHT OF WAY.

II.

> WHETHER OR NOT A COMPULSORY RIGHT OF WAY CAN BE GRANTED TO PRIVATE RESPONDENTS WHO HAVE TWO OTHER EXISTING PASSAGE

WAYS OTHER THAN THAT OF PETITIONERS AND AN ALTERNATIVE VACANT LOT FRONTING THE PROVINCIAL ROAD ALSO ADJACENT TO PRIVATE RESPONDENTS' PROPERTY, WHICH CAN BE USED IN GOING TO AND FROM PRIVATE RESPONDENTS' PROPERTY.

III.

RESPONDENT HON. COURT OF APPEALS GRAVELY ERRED IN MAKING A PORTION OF ITS STATEMENT OF FACTS FROM ALLEGATIONS IN THE COMPLAINT AND NOT FROM THE EVIDENCE ON RECORD.

IV.

RESPONDENT HON. COURT OF APPEALS SERIOUSLY ERRED IN HOLDING THAT PRIVATE RESPONDENTS HAVE NO ADEQUATE OUTLET TO A PUBLIC HIGHWAY WHICH INFERENCE DRAWN FROM FACTS WAS MANIFESTLY MISTAKEN.[6]

The first, second, and fourth assigned errors involve questions of fact. Settled is the rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals via Rule 45 of the Rules of Court is limited to reviewing errors of law. Findings of fact of the latter are conclusive, except in the following instances: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.[7]

A perusal of the pleadings and the assailed decision of the Court of Appeals, as well as of the decision of the trial court, yields no ground for the application of any of the foregoing exceptions. All told, the findings of fact of both courts satisfied the following requirements for an estate to be entitled to a compulsory servitude of right of way under the Civil Code, to wit:

1. the dominant estate is surrounded by other immovables and has no adequate outlet to a public highway (Art. 649, par. 1);

2. there is payment of proper indemnity (Art. 649, par. 1);

3. the isolation is not due to the acts of the proprietor of the dominant estate (Art. 649, last par.); and

4. the right of way claimed is at the point least prejudicial to the servient estate; and insofar as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest (Art. 650).[8]