

## NINETEENTH DIVISION

[ CA-G.R. CV NO. 03394, February 27, 2015 ]

**DELIA SALAS GUEVARRA, PLAINTIFF-APPELLANT, VS. SPS. SALVACION AND ROMEO CASIDSID, DEFENDANTS-APPELLEES.**

### DECISION

**QUIJANO-PADILLA, J.:**

Before Us is an Appeal<sup>[1]</sup> from the Decision<sup>[2]</sup> dated December 29, 2009 of the Regional Trial Court, Sixth (6<sup>th</sup>) Judicial Region, Branch 8, Kalibo, Aklan in Civil Case No. 7417 for Legal Redemption.

#### The Antecedents

Subject of the present controversy is Lot No. 336 situated at Barangay Poblacion, Nabas, Aklan, which is particularly described as follows:

"A parcel of Agricultural land (Lot 336) containing an area of SEVEN THOUSAND NINE HUNDRED FIVE (7,905) SQUARE METERS, more or less, located at Brgy. Poblacion, Nabas, Aklan. Bounded on the North by Lot Nos. 340, 337, and 299; on the East by Lot No. 298; on the South by Depression; and on the West by Lot No. 357 pt. covered by ARP/TD No. 93-001-0102, PIN-038-14-001-03-014, declared in the name of Fannie J. Salas, with assessed value of =P=21,250.00, for tax effectivity 1994."<sup>[3]</sup>

#### *Version of the Plaintiff-Appellant*

Plaintiff-appellant Delia Salas Guevarra alleged in her Complaint<sup>[4]</sup> that she is the adjoining owner of the aforementioned Lot No. 336. Her own land (Lot No. 299) is covered by Original Certificate of Title No. P-32010<sup>[5]</sup> with an area of 7,445 square meters, located at Brgy. Poblacion, Nabas, Aklan.

Lot No. 336 is originally declared in the name of Leona C. Sardina, under Tax Declaration No. 1082<sup>[6]</sup> for the year 1956. When the original owner died, the said property was adjudicated and transferred to her son, Arestoteles Sardina,<sup>[7]</sup> whereby Tax Declaration No. 431<sup>[8]</sup> was issued in his name. In 1985, Arestoteles Sardina sold the disputed property to Fannie J. Salas, consequently, Tax Declaration No. ARP/TD No. 93-001-0102 was issued.

While the property was owned by Arestoteles Sardina, plaintiff-appellant's father, Ramon Salas was designated as tenant over the whole parcel of land. Ramon Salas' possession over the property started in the year 1971. He developed and transformed it into a fishpond, for which he incurred cost amounting to more than P100,000.00.

Upon the death of Ramon Salas, being his daughter, plaintiff-appellant took over the management of the fishpond. Like her father, plaintiff-appellant possessed the property as tenant even if it was already sold to Fannie Salas. She also turned over to the new owner Fannie Salas the latter's share every harvest.

On December 4, 2004, plaintiff-appellant's possession over the land was discontinued as defendants-appellees by force, intimidation, strategy and stealth entered the land and unlawfully drove her off. This incident was blotted at the PNP station.<sup>[9]</sup>

It was only on December 17, 2004 that plaintiff-appellant came to know that the disputed property was already sold by Fannie Salas to defendant-appellee Salvacion Casidsid through a Deed of Absolute Sale<sup>[10]</sup> executed on December 2, 2004.

Plaintiff-appellant was never informed about the sale, neither did she receive any offer from the vendor Fannie Salas to buy the property considering that she is an adjoining owner of the land.

Plaintiff-appellant and defendants-appellees met several times at the Office of the Lupong Tagapamayapa, wherein plaintiff-appellant asked that she be reimbursed of the expenses she spent for the land's improvement.

On January 7, 2005, defendants-appellees through illegal means destroyed the bamboo fence, uprooted the nipa plants and placed a no trespassing sign on the property. Defendants-appellees also opened the outlet of the fishpond and took away the fishes and the crablets. Again, such incident was reported<sup>[11]</sup> to the authorities.

In gist, plaintiff-appellant wanted to redeem the disputed property by exercising her right to legal redemption.

Plaintiff-appellant presented as witnesses herself, Hernani Sabar, Romeo Balidio and Ernie Legas.

### ***Version of the Defendants-Appellees***

Defendants-appellees spouses Romeo and Salvacion Casidsid averred in their Answer<sup>[12]</sup> that the original owner Leona Sardina is the mother of defendant-appellee Salvacion Casidsid. Arestoteles Sardina, therefore is her brother.

Meanwhile, Ramon Salas, the alleged tenant of the disputed parcel of land is the father-in-law of Arestoteles Sardina.

Defendants-appellees further alleged that it was only in 1974 that the land was adjudicated to Arestoteles Sardina, hence he could have not designated Ramon Salas as tenant of the land in 1971. Moreover, Ramon Salas never took possession of the land, as it was Feliciano Solanoy who was tasked to be the caretaker of the disputed property. In addition, there was no truth to the allegation that Ramon Salas spent money for the land as the improvements made thereon were from the pocket of Fannie Salas.

Likewise, plaintiff-appellant was also never in possession of the subject property as the latter was a teacher by profession who worked in Manila for a considerable length of time.

Defendants-appellees also deny the allegation that they dispossessed the plaintiff-appellant. When the caretaker Feliciano Solanoy cut the nipa plants and opened the gate of the fishpond to let the water in, he was only performing the duties assigned to him by the owner of the property.

There was also no truth to the allegation that plaintiff-appellant was not informed about the sale. In fact, defendant-appellee Salvacion Casidsid notified the former of her intention to buy back the land from Fannie Salas as it used to belong to her grandparents. In fact, upon hearing this, plaintiff-appellant never opposed such a proposition.

Defendant-appellee Salvacion Casidsid testified during the trial. She also presented as witnesses Melba Solanoy and Melchor Solanoy.

After the parties submitted their respective briefs, a Pre-trial Order was issued by the trial court, which was later on amended. The following were the pertinent admissions and/or stipulation of facts contained in the Amended Pre-trial Order,<sup>[13]</sup> viz:

1. The identity of the land in question is that described in paragraph 2 of the Complaint;
2. That the land is declared in the name of Fannie Salas as of 1994, and is now presently declared in the name of Salvacion Casidsid;
3. That plaintiff is the adjoining owner North of the land subject matter of this case designated as Lot 299;
4. That Lot 299 is now covered by Katibayan ng Orihinal na Titulo Blg. P-32010 registered in the name of Delia Salas, the plaintiff in this case;
5. That plaintiff Delia Salas is the daughter of Ramon Salas;
6. The present possessor of the land, are the defendants. They started their possession on December 4, 2004;
7. That there was a confrontation between the plaintiff and defendants on December 17, 2004 before the Office of the Lupong Tagapamayapa of Poblacion, Nabas, Aklan;
8. That the land in question is a rural land/agricultural land;
9. That the land in question forms part of that bigger parcel of land used to belong to Leona Sardina covered by Tax Declaration No. 10822 for the year 1956 and the remaining area after deducting the land in question is about 2000 plus square meters which is a cocol portion;

10. That there is no dispute on the remaining area of 2000 plus square meters;

11. That the share of Arestoteles Sardina from the estate of Leona Sardina pursuant to a Deed of Partition which share is now the land in question was sold to Fannie Salas, her sister-in-law;

12. That Fannie Salas sold the land to the defendants;

13. That Ramon Salas is the father-in-law of Arestoteles Sardina; and

14. That there was a previous Fishpond Lease Agreement Application filed by the original owner.

The parties further agreed on the following issues for resolution of the trial court:

1. Whether or not the plaintiff is a previous lessee of the land in question;

2. Whether or not plaintiff has the right of redemption as adjoining owner and as lessee;

3. Whether or not the plaintiff exercised her right of redemption as a previous lessee and/or preemption as an adjoining owner within thirty (30) days from notice of sale in writing; and

4. Who among the parties are entitled to damages.

### **The Ruling of the Regional Trial Court**

In a Decision<sup>[14]</sup> dated December 29, 2009 the Regional Trial Court, Sixth (6th) Judicial Region, Branch 8, Kalibo, Aklan in Civil Case No. 7417 ruled in favor of the defendants-appellees. The dispositive portion of the assailed resolution reads:

"WHEREFORE, in the light of the foregoing, the instant case is hereby DISMISSED.

Costs against the plaintiff.

SO ORDERED."<sup>[15]</sup>

Unsatisfied, petitioner-appellant filed a Motion for Reconsideration<sup>[16]</sup>; however, such was denied by the trial court in an Order<sup>[17]</sup> dated February 24, 2010.

Hence, this appeal.

### **Assignment of Errors**

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT RULED THAT THE PLAINTIFF-APPELLANT WAS NOT A LESSEE OF THE LAND IN QUESTION.

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO,

AKLAN ERRED WHEN IT RULED THAT THE PLAINTIFF-APPELLANT HAS NO RIGHT OF REDEMPTION AS ADJOINING OWNER OVER THE LAND IN QUESTION.

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT DID NOT RULE THAT THE DEFENDANTS-APPELLEES ARE NOT THE ADJOINING OWNERS OF THE LAND IN QUESTION.

THE HONORABLE COURT, REGIONAL TRIAL COURT, BRANCH 8, KALIBO, AKLAN ERRED WHEN IT DID NOT RULE THAT THE PLAINTIFF-APPELLANT IS ALSO THE RELATIVE OF THE PREVIOUS OWNER OF THE LAND IN QUESTION.

### **The Ruling of this Court**

The appeal is not meritorious.

In civil cases, basic is the rule that the party making allegations has the burden of proving them by a preponderance of evidence. Moreover, parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent. This principle equally holds true, even if the defendant had not been given the opportunity to present evidence because of a default order. The extent of the relief that may be granted can only be as much as has been alleged and proved with preponderant evidence required under Section 1 of Rule 133 of the Revised Rules on Evidence.<sup>[18]</sup>

Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.<sup>[19]</sup>

Anent thereto, it is also axiomatic that the assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand, a vantage point denied appellate tribunals.<sup>[20]</sup>

Guided by the above-mentioned principles and after a scrutiny of the evidence and records of the case, We find no cogent reason to divert from the findings of the trial court.

Basically, plaintiff-appellant in this case invokes her right to legal redemption considering that she was allegedly a lessee of the land, an adjoining lot owner and the nearest kin of the seller.

We are not persuaded.

In retrospect, to prove her claim of possession by virtue of her being an alleged lessee or tenant, plaintiff-appellant presented the testimonies of Hernani Sabar,