

FIFTEENTH DIVISION

[CA-G.R. CV NO. 98539, March 18, 2014]

**CELERINA RECAIDO MANLAPAZ, PLAINTIFF-APPELLANT, VS.
QUINTIN PAREDES MANLAPAZ & REGISTER OF DEEDS OF
MANDALUYONG CITY, DEFENDANTS-APPELLEES.**

DECISION

CORALES, J.:

This is an appeal^[1] from the February 1, 2012 Decision^[2] of the Regional Trial Court (RTC), Branch 213, Mandaluyong City in Civil Case No. MC-04-2558 dismissing plaintiff-appellant Celerina Recaido Manlapaz' (Celerina) amended complaint for quieting of title, recovery of damages, accounting and collection of sum of money.

The Antecedents

Celerina, a Filipino, and defendant-appellee Quintin P. Manlapaz (Quintin), a naturalized American citizen, got married on July 9, 1985 in Rockville, Maryland, United States of America. After obtaining a divorce decree in Nevada, United States of America on April 16, 1998, Celerina bought a parcel of land with buildings and improvements located at #133 C, Pinatubo Street, Mandaluyong City as shown by a deed of absolute sale^[3] dated June 3, 1998. Title was later on registered in the name of "*Celerina R. Manlapaz, married to Quintin P. Manlapaz*" under Transfer Certificate of Title (TCT) No-13938.^[4]

On October 12, 2004, Celerina filed before the RTC an amended complaint^[5] for quieting of title, recovery of damages, accounting, collection of sum of money with prayer for issuance of a writ of preliminary injunction (WPI) against Quintin and Edna Ocampo (Edna), docketed as Civil Case No. MC-04-2558. The complaint alleged that Celerina bought the property out of her exclusive funds but Quintin wrongfully inserted the phrase "married to Quintin P. Manlapaz" in the deed of absolute sale despite knowledge that he had been divorced from her. She also claimed that by means of fraud, deceit and misrepresentation, Quintin, through Edna, collected rentals on the apartment built on the property. Despite written demand, Quintin failed to return the rentals. Celerina prayed that Quintin's name be stricken out in TCT No. 13938 and the latter be ordered to account for all the rentals he misappropriated, which is not less than P500,000.00 with interest at 12% per annum until full satisfaction and pay moral and exemplary damages plus attorney's fees and litigation expenses.

Thereafter, and upon Celerina's motion,^[6] the RTC directed the tenants of the apartment to deposit their monthly rentals in court.^[7] However, Celerina informed the RTC of the tenants' non-compliance with its order,⁸ but the RTC ruled that it has no jurisdiction over them because they were not impleaded in the case,

consequently, it cannot order them to explain their failure to deposit the rentals with the court.^[9]

Quintin filed his Answer^[10] admitting that Celerina owns the parcel of land but claiming the 8-door apartment built thereon as his exclusive property. According to Quintin, before Celerina purchased the land, they agreed that he would invest in the property by partly contributing in the purchase price and by financing exclusively from his own resources the construction of an apartment. He would then use the initial rentals to recover the expenses of the construction and upon its full settlement, Celerina could have her share, unless she had already ceded the land to Quintin's business associate for \$100,000. Quintin further claimed that Celerina caused the inclusion of the words "Married" and "with my marital consent – Quintin P. Manlapaz" in the deed of absolute sale in order to facilitate the infusion of his investments in the property and she signed and acknowledged this deed of absolute sale before a notary public. As compulsory counterclaim, Quintin sought the award of moral and exemplary damages, attorney's fees and cost of litigation.

In her Reply,^[11] Celerina denied Quintin's allegations as to the construction of the apartment and insisted that the same was already existing at the time of her purchase. She also averred that Quintin has no resources which he could have invested in any business prospect.

It appears from the records that Edna failed to file any responsive pleading due to improper service of summons.^[12] Celerina moved that she be declared in default but Edna filed a counter-motion seeking the dismissal of the complaint against her.^[13] The RTC ruled in favor of Edna and dismissed^[14] the complaint against her because she has no privity of contract, express or implied, with Celerina.

During pre-trial, the parties stipulated, among others, that:^[15]

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5. That based on the Joint Petition for Summary Divorce, the petitioners are the parties in this case;
6. That the property in question was purchased by the plaintiff [Celerina] after the Decree of Divorce;
7. That the title, as well as the tax declaration and real estate taxes over the property in dispute are all in the name of plaintiff;
8. The existence of the Deed of Sale in favor of Celerina Manlapaz executed by the former owner of the Mandaluyong property;
9. That the property in question was rented out by the defendant (Quintin) to third parties for monthly rentals;
10. That the rentals over the premises were entirely taken and kept by the defendant without remitting any amount to the plaintiff;
11. That it is Edna Ocampo who collects the rent on behalf of defendant;

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Emmanuel Pangan (Emmanuel), an employee of the Mandaluyong City Engineering Office, and Eufroña Martínez-Recaido (Eufroña), Celerina's sister, testified to support the allegations in the complaint. Emmanuel identified the certification^[16] from his office that no building permit was issued on the property.^[17] On the other hand, Eufroña claimed that Quintin has no source of income because he has been on disability for many years in the United States of America. However, she admitted on cross-examination that she was in Milan during the sale of the property and her knowledge of the transaction was based only on the information relayed to her by Celerina.^[18]

After several postponements and re-settings,^[19] Quintin still failed to present his evidence prompting the RTC to issue its December 6, 2010 Order^[20] which deemed waived Quintin's right to do so and submitted the case for decision.

The case was not immediately resolved because the presiding judge^[21] and the other judges to whom the case was re-raffled either recused themselves or refused to accept the case.^[22] However, the Supreme Court later on set aside the inhibition of the presiding judge and directed him to decide the instant case.^[23]

The Ruling of the RTC

On February 1, 2012, the RTC dismissed^[24] Celerina's amended complaint because she failed to testify to substantiate her claim and present the original copies of her documentary evidence. It noted that except for Eufroña's Judicial Affidavit, all other evidence on record are plain photocopies. The RTC ruled in this wise and disposed the case as follows:

In the case at bar, the plaintiff failed to establish that the offer in evidence of the photocopy documents were made in accordance with any of the exceptions allowed under the abovequoted rule [Section 3, Rule 130 of the Rules of Court]. Hence, this court cannot accept the document as genuine and proceeded to determine its validity based on such assumption. Accordingly, plaintiff [Celerina] having failed to prove the due execution and genuineness of her purported evidence which made it without weight hence, the same cannot be given consideration. Where the best evidence cannot be submitted secondary evidence may be presented however, the plaintiff failed to do so the same.

In addition, the existence of the original documents were not established by the photocopies or through the testimony of the plaintiff since she failed to come to court and substantiate her allegations. She failed to prove that the originals had been lost or could not be produced in court after reasonable diligence and good faith. The non presentation of the original documents affected the weight of the evidence intended by plaintiff to establish her prayer in her Complaint. The mere submission of photocopied documents will not suffice to prove her claim in this case.

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Next the plaintiff was only able to present as witness her sister and that she failed to testify in this case.

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This court finds the testimony given by the sister of the plaintiff as hearsay since the same is not based on personal knowledge but derived from some other person. The facts and circumstances relayed by the sister of plaintiff in court during the time she testified anent the previous relationship of the plaintiff and defendant originated from other persons and some were merely relayed to her by the plaintiff. It is only the plaintiff who has personal knowledge of all the facts stated in her complaint who can prove the same in court.

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WHEREFORE, premises considered, this complaint filed by plaintiff, Celerina Recaido Manlapaz, and the counterclaim of defendant, Quintin Paredes Manlapaz, are both DISMISSED.

SO ORDERED.

Aggrieved, Celerina lodged the instant appeal raising the following issues:

I. DID THE TRIAL COURT/HON. JUDGE CARLOS A. VALENZUELA ERR IN FACT AND IN LAW IN FAILING TO RULE THAT THE PREPONDERANCE OF EVIDENCE IS WITH THE PLAINTIFF, AND IN ARBITRARILY DISMISSING THE COMPLAINT?

II. DID THE PONENTE JUDGE VALENZUELA ERR IN DISREGARDING THE ADMISSIONS IN THE PLEADINGS, IN THE PRE-TRIAL AND IN HIS ORDERS (DATED JAN. 29, 2010 AND MARCH 15, 2010) ADMITTING ALL THE EXHIBITS?

III. DID THE PONENTE JUDGE VALENZUELA ERR IN ALLOWING HIS EMOTIONS, PREJUDICES, IRE AND BRUISED EGO TO PREVAIL OVER HIS DUTY TO RENDER A FAIR, EQUITABLE AND JUST DECISION?

IV. IS THE APPEALED DECISION CONTRARY TO THE FACTS ESTABLISHED BY THE EVIDENCES, THE ADMISSIONS IN THE PLEADINGS, THE PRE-TRIAL ORDER, THE DOCUMENTARY EVIDENCES OFFERED AND ALREADY ADMITTED IN THE ORDER RESOLVING THE FORMAL OFFER?

V. DID THE TRIAL COURT A QUO/JUDGE VALENZUELA DECIDE A QUESTION OF SUBSTANCE (IN THIS CASE), IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT? AND

VI. DID THE TRIAL COURT A QUO DEPART FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION?

Thus, the pivotal issue in this case is whether or not there is preponderance of evidence to prove Celerina's claim that she is the exclusive owner of the parcel of land and improvements registered under TCT No. 13938.

This Court's Ruling

The appeal is meritorious.

An action for quieting of title is governed by Articles 476 and 477 of the New Civil Code (NCC). Under Article 476, quieting of title is proper whenever there is a cloud on the title to real property or any interest in real property by reason of any instrument, record, claim, encumbrance, or proceeding that is apparently valid or effective, but is, in truth and in fact, invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title. To successfully maintain an action for quieting of title, Article 477 provides that the plaintiff must have legal or equitable title to or interest in the real property which is the subject matter of the action. Title to real property refers to that upon which ownership is based. It is the evidence of the right of the owner or the extent of his interest, by which means he can maintain control and, as a rule, assert right to exclusive possession and enjoyment of the property.
[25]

Simply put, in order that an action for quieting of title may prosper, these requisites must concur, to wit: (1) the plaintiff or complainant has a legal or equitable title or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.
[26]

It is also an equally settled rule that in civil cases, he who alleges the affirmative of the issue has the burden of proof, and upon the plaintiff therein, the burden of proof never parts. However, in the course of the trial, once the plaintiff makes a *prima facie* case in his favor, the duty or burden of evidence shifts to defendant to controvert plaintiff's *prima facie* case, otherwise, a verdict must be returned in favor of plaintiff.
[27] Corollary thereto, if the defendant alleges in his Answer an affirmative defense, which is not the denial of an essential ingredient in the plaintiff's cause of action, but is one which if established will be a good defense, the burden of proof lies on the defendant to prove such affirmative defense.
[28] Thus, the party having the burden of proof must produce preponderance of evidence thereof or that evidence which is of greater weight, or more convincing than that which is offered in opposition to it; at bottom, preponderance of evidence means probability of truth.
[29]

Guided by the foregoing principles, We are behooved to reverse and set aside the ruling of the RTC.

Celerina's Legal Title Proven By Judicial Admission

Although Celerina failed to testify in court and her documentary evidence were mere photocopies, the court *a quo* should not have disregarded Quintin's judicial admission in his Answer and during the pre-trial conference that Celerina is the sole owner of the litigated parcel of land. It bears stressing that stipulation of facts at the pre-trial of a case constitutes judicial admission
[30] which is evidence of the highest order.
[31] Its veracity requires no further proof and may be controverted only upon a clear showing that the admissions were made through palpable mistake or that no admissions were made.
[32] This is clearly provided in Section 4, Rule 129 of the Rules of Court, viz.:

Section 4. Judicial admissions. — An admission, verbal or written, made by the party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it