

## **EIGHTH DIVISION**

**[ CA-G.R. CV No. 100731, November 28, 2014 ]**

**MAXIMINO B. VALERA AND LIDOVINA VALERA SENEN,  
PLAINTIFFS-APPELLEES, VS. CESAR LOPEZ, DEFENDANT-  
APPELLANT.**

### **DECISION**

**LAMPAS PERALTA, J.:**

This treats of an appeal<sup>[1]</sup> from the Decision dated June 5, 2008<sup>[2]</sup> in Civil Case No. 1266 (For: *"Ownership of, and Quieting of Title to, Real Estate With Damages"*) of Branch 2, Regional Trial Court, Bangued, Abra declaring plaintiffs-appellees as the lawful owners of the subject property and ordering defendant-appellant to pay plaintiffs-appellees Php50,000.00 as actual damages, plus legal interest.

### ***THE ANTECEDENTS***

Plaintiff-appellee Maximino B. Valera, plaintiff-appellee Lidovina Valera Senen and Paz B. Valera are siblings. They acquired from their deceased mother, Consolacion B. Valera, Lots Nos. 9989 and 9987 with a total area of 2,664 square meters, more or less, situated at Poblacion, La Paz, Abra. Paz B. Valera went abroad in 1974 and ceded all her rights over Lots Nos. 9989 and 9987 in favor of plaintiffs-appellees.<sup>[3]</sup>

In 1993, defendant-appellant Cesar Lopez entered the northeastern portion of Lot No. 9989, demolished plaintiffs-appellees' residential house with a floor area of 80 square meters and built his own house thereon.<sup>[4]</sup> Defendant-appellant claims that he bought the property from Apolinario Adres pursuant to an *"Absolute Sale of Real Estate"* executed on March 11, 1992.<sup>[5]</sup> Defendant-appellant proceeded with the construction of his house and occupied the same despite plaintiffs-appellees' demand for him to vacate the premises.<sup>[6]</sup>

On May 30, 1994, plaintiffs-appellees filed with the trial court a complaint<sup>[7]</sup> against defendant-appellant for *"Ownership of, and Quieting of Title to, Real Estate With Damages"* alleging, among others, that (i) plaintiffs-appellees inherited Lot No. 9987-A and a residential house with a floor area of 59 square meters from their deceased mother, Consolacion B. Valera; (ii) in 1993, defendant-appellant entered the northeastern portion of Lot No. 9987-A, dismantled plaintiffs-appellees' house and built his own house thereon; (iii) plaintiffs-appellees demanded defendant-appellant to vacate the property, but the latter ignored their demand; and, (iv) defendant-appellant's unlawful acts prejudiced plaintiffs-appellees' ownership over their property. Plaintiffs-appellees prayed for payment of Php50,000.00 representing the value of the house which defendant-appellant demolished, Php30,000.00 as attorney's fees, moral damages and exemplary damages.

On May 21, 1994, defendant-appellant filed his answer<sup>[8]</sup> alleging, among others, that (i) defendant-appellant owned a residential lot located at Poblacion, La Paz, Abra and bounded on the South by Lot No. 9987; (ii) defendant-appellant bought said property from Apolinario Adres; (iii) defendant-appellant and his predecessors-in-interest had occupied the property for 30 years; and, (iv) the complaint lacked cause of action because defendant-appellant did not encroach Lot No. 9987-A. Defendant-appellant prayed that plaintiffs-appellees be ordered to pay him Php50,000.00 as moral damages. Php10,000.00 as actual damages and Php20,000.00 as exemplary damages.

On June 27, 1994, plaintiffs-appellees filed with the trial court an amended complaint<sup>[9]</sup> changing the technical description of the property. On August 25, 1994, defendant-appellant filed "*Answer to the Amended Complaint*,"<sup>[10]</sup> further alleging that (i) Lot No. 9989 was "cadastrally surveyed" in the name of Apolinario Adres; (ii) plaintiffs-appellees never occupied Lot No. 9989; (iii) estoppel, laches and prescription had set in; and, (iv) the land claimed by plaintiffs-appellees was different because defendant-appellant's land had different boundaries.

Pre-trial was conducted. In a pre-trial Order dated October 11, 1994,<sup>[11]</sup> the trial court summarized what transpired as follows:

Parties agreed as to their identities and capacity to sue and be sued and the triable issues in this case are the following:

1. Whether the land claimed by the defendant was legally sold to him by Apolinario Adres which sale even if true as claimed by the plaintiffs is spurious as he is not the original owner of this property but the mother of the plaintiffs, Consolacion Valera.
2. Whether the house that was demolished by the defendant is owned by the vendor Apolinario Adres or Consolacion Valera to justify the claim for damages by the plaintiffs.
3. Whether or not Lot 9989 was formerly a part of the original land owned by Consolacion Valera or is a separate adjoining property.

During the trial, plaintiff-appellee Maximino B. Valera<sup>[12]</sup> was presented as witness. Plaintiffs-appellees presented documentary evidence consisting of tax declarations dating back in 1948, and tax receipts, among others.<sup>[13]</sup>

On the other hand, defendant-appellant Cesar Lopez<sup>[14]</sup> and Amante Adres<sup>[15]</sup> were presented as witnesses. Defendant-appellant's documentary evidence consisted of tax declarations dating back in 1968, "*Absolute Sale of Real Estate*" dated March 11, 1992 executed between defendant-appellant and Apolinario Adres, and tax receipts, among others.<sup>[16]</sup>

On June 5, 2008, the trial court rendered a Decision<sup>[17]</sup> declaring plaintiffs-appellees as the lawful owners of subject property, and ordering defendant-appellant to pay

plaintiffs-appellees Php50,000.00 as actual damages, with legal interest. Thus:

WHEREFORE, judgment is rendered declaring plaintiffs as the lawful owners of the properties described in Par. 2 (A) and (B) of the amended complaint and ordering the defendant to pay the plaintiffs the sum of P50,000.00 as actual damages of the house he demolished with legal interests.

SO ORDERED.<sup>[18]</sup>

Hence, defendant-appellant filed the present appeal which is premised on the following assignment of errors:

#### I

THE TRIAL COURT GRAVELY ERRED IN RULING THAT THE PLAINTIFFS-APPELLEES WERE THE OWNERS OF THE SUBJECT PROPERTY.

#### II

THE TRIAL COURT GRAVELY ERRED IN AWARDING ACTUAL DAMAGES.  
<sup>[19]</sup>

### ***THE ISSUE***

Whether the trial court erred in declaring plaintiffs-appellees as the lawful owners of subject property, and in ordering defendant-appellant to pay plaintiffs-appellees Php50,000.00 as actual damages, with legal interest.

### ***THE COURT'S RULING***

In its Decision dated June 5, 2008, the trial court held that plaintiffs-appellees were able to prove their claim of ownership over the disputed property, as it gave weight and credence to plaintiffs-appellees' evidence which included the tax declaration issued in the name of their mother in 1948, as compared to defendant-appellant's tax declaration issued in the name of Apolinario Adres in 1968, or twenty years later. The trial court further noted the perjured statement of Apolinario Adres in view of the material contradictions between his affidavit stating that the land in dispute was his share in the property of his parents, and his claim in the "*Absolute Sale of Real Estate*" dated March 11, 1992 that he "acquired it from Paz Valera".

Defendant-appellant faults the trial court in so ruling, as he contends that (i) both parties had no title to prove their respective claims over the disputed lot; (ii) plaintiffs-appellees' claim that Paz B. Valera ceded to plaintiffs-appellees her interest over the property was not reduced to writing; (iii) defendant-appellant had a deed of sale which was confirmed by Amante Adres; (iv) the present controversy was a case of double sale as the disputed property was first sold to plaintiffs-appellees, then

later to defendant-appellant; (v) defendant-appellant bought the property from Apolinario Adres and had been in possession thereof for more than 30 years; and, (vi) the trial court did not explain how it arrived at the Php50,000.00 actual damages as there were no receipts presented.<sup>[20]</sup>

It is axiomatic that each party must prove his own affirmative allegation; one who asserts the affirmative of the issue has the burden of presenting at the trial such amount of evidence required by law to obtain a favorable judgment which, in civil cases, is by preponderance of evidence.<sup>[21]</sup> By preponderance of evidence is meant that the evidence adduced by one side is, as a whole, superior to that of the other side. Essentially, preponderance of evidence refers to the comparative weight of the evidence presented by the opposing parties.<sup>[22]</sup>

The amended complaint prayed for quieting of title over the subject property. Pertinent provisions of Article 476, New Civil Code read:

Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

In Heirs of Toring vs. Heirs of Boquilaga,<sup>[23]</sup> the task of the trial court in an action for quieting of title was explained as follows:

In such action, the competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper places, and to make the claimant, who has no rights to said immovable, respect and not disturb the one so entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce the improvements he may desire, as well as use, and even abuse the property as he deems fit.

Both parties presented tax declarations to bolster their respective claims of ownership over the land in dispute. Plaintiffs-appellees presented Tax Declaration No. 8265<sup>[24]</sup> issued in 1948 in the name of their mother Consolacion Valera. For his part, defendant-appellant presented Tax Declaration No. 15733<sup>[25]</sup> issued only in 1968 (or 20 years later) in the name of Apolinario Adres. Details of the tax declarations are as follows:

For plaintiffs-appellees:

Tax Declaration No.	Date of Issuance	Declarant
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8265	1948	Consolacion Valera
13811	1970	Liduvina V. Senen
14798	1982	Lidovina Senen
1413	1985	- do -
664	1985	- do -
11392	1988	- do -
849	1994	- do -

For defendant-appellant:

Tax Declaration No.	Date of Issuance	Declarant
15733	1968	Apolinario Adres
92	1980	- do -
93	1980	- do -
12117	1992	Caesar Lopez (sic)
841	1994	- do -

Notably, plaintiffs-appellees' earlier tax declaration becomes *prima facie* evidence of ownership in their favor. While it is true that a tax declaration is merely *indicium* of a claim of ownership, tax declaration becomes *prima facie* evidence of ownership where a party is unable to produce any shred of document as evidence of said party's claim. As held:

xxx [J]urisprudence is replete with cases where the Court has stated that ownership and possession are established by a Certificate of Title and, in its absence, by a Tax Declaration. Admittedly, it is well-settled that tax declarations and receipts are not conclusive evidence of ownership, or of the right to possess land, in the absence of any other strong evidence to support them. "The tax receipts and declarations are merely indicia of a claim of ownership." However, in the case before us where respondent is unable to produce any shred of document as evidence of her claim, the tax declaration becomes *prima facie* evidence of ownership in favor of petitioners. "Tax receipts and [tax] declarations are *prima facie* proof of ownership or possession of the property for which such taxes have been paid." The established fact that the tax declaration was issued as early as 1988 in the name of Mary, and has not been transferred to anyone else since its issuance tilts the balance in favor of petitioners. Petitioners' payment of real property taxes only on August 11, 1997, or a month before the respondent filed her complaint in court, should have no bearing on the question of ownership over the old house. xxx<sup>[26]</sup>

The alleged sale of the property by Apolinario Adres to defendant-appellant by virtue of the purported "*Absolute Sale of Real Estate*" dated March 11, 1992<sup>[27]</sup>, has no leg to stand. As the trial court observed, there were unexplained material discrepancies in Apolinario Adres' declaration in the "*Absolute Sale of Real Estate*" dated March 11, 1992 and the statement in his affidavit dated March 7, 1977<sup>[28]</sup>. Pertinent portions thereof read: