



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 4, 2021, which reads as follows:

“G.R. No. 226090 (*Gaudencia Mercado Cumpio, substituted by her heirs, Heirs of Juanito M. Cumpio, et al. v. Tomas Molina, substituted by his heirs, Felomina M. Bulaong, Exuperio C. Molina and Elena B. Molina*). – The instant Petition for Review¹ under Rule 45 of the Rules of Court assails the Decision² of the Court of Appeals dated March 19, 2015 in CA-G.R. CEB CV No. 03494, dismissing the Complaint for Recovery of Ownership and Possession of Land with damages docketed as Civil Case No. 92-02-03 with the Regional Trial Court (RTC) of Tacloban City, Branch 6.

Gaudencia Mercado Cumpio (Gaudencia) is the predecessor-in-interest of petitioners and the original plaintiff in the complaint filed with the RTC. Tomas Molina (Tomas) is the predecessor-in-interest of respondents and the original defendant in said civil case.

Facts of the Case

Petitioners claimed that Gaudencia owned a parcel of land situated in Barangay Sto. Niño, Tanauan, Leyte which she inherited from her grandfather, Felipe Mercado. Tax declarations over the parcel of land had been issued in the name of Gaudencia’s husband, the late Victoriano Cumpio (Victoriano), because he facilitated payment of taxes for the property.³

In the late 1950s or early 1960s, Victoriano’s sister, Ceferina Cumpio Molina, and her husband Tomas sought permission to occupy a portion of the property for they no longer feel safe at their residence in “Ambao”. Upon approval of Victoriano and Gaudencia, Ceferina and Tomas built their two-storey residential house. Petitioners asserted that Ceferina and Tomas offered to purchase the property covered by their two-storey house.

¹ Rollo, pp.10-48.

² Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with the concurrence of Associate Justices Edgardo L. Delos Santos (Former Member of the Court) and Marie Christine Azcarraga-Jacob; *id.* at 52-69.

³ *Id.* at 118-119.

Gaudencia was initially unwilling to sell such portion because the property may be used to support her growing children. However, the late Victoriano convinced Gaudencia to sell the portion of property to Ceferina and Tomas.⁴

Petitioners alleged that Ceferina and Tomas fenced, not only the area where the two-storey house stood, but also an area six times larger than that originally purchased. Gaudencia called the attention of the spouses, who explained that fencing a bigger area was to provide more space for their domesticated animals to roam. Satisfied with the explanation, Gaudencia no longer questioned the spouses. Eventually, the siblings Victoriano and Ceferina passed away and Gaudencia migrated to Canada.⁵

Petitioners claimed that, sometime in June 1991, Tomas made known his intention to them of building another house next to the two-storey residential structure he and Ceferina originally erected. Petitioners objected to this because Tomas would be building on a portion of property beyond what he and Ceferina originally purchased from Victoriano and Gaudencia. Petitioners alleged that Tomas ignored their desistance as he claimed ownership over the parcel of land on which two additional houses were eventually built.⁶ In fact, petitioners were surprised to learn that a tax declaration had already been issued in the name of Tomas.⁷ Petitioners presented Tax Declaration No. 20772 issued in the name of Victoriano, as proof that Gaudencia's property now consists of 3,088 square meters after Tomas segregated the area which he claims to own.⁸

Petitioners asserted that Tomas's claim of ownership was based from an affidavit he executed dated January 17, 1962. The affidavit stated that Tomas supposedly purchased in 1938 a parcel of land with an area of 375 square meters from petitioners' great grandfather, Felipe Mercado. Petitioners alleged that the sale was fictitious and impossible because their great grandfather passed away as early as 1913.⁹ This constrained Gaudencia, represented by her children, to file a complaint with the RTC for reconveyance.¹⁰

Tomas denied encroaching on any portion of Gaudencia's property. He averred that the two-storey house and additional houses were well-within the portion of property purchased from Victoriano as evidenced by a Deed of Absolute Sale dated February 12, 1957.¹¹ Per the Deed of Absolute Sale, Tomas and Ceferina purchased from Victoriano an area of 702 square meters. This purchase is further supported by an Affidavit of Adjudication with Confirmation of Sale dated April 11, 1975 executed by Gaudencia.¹²

⁴ Id. at 119.

⁵ Id. at 54.

⁶ Id. at 120.

⁷ TSN dated March 29, 1994, p. 6.

⁸ *Rollo*, pp. 123-124.

⁹ Id. at 121, 126.

¹⁰ Id. at 121.

¹¹ Id. at 139.

¹² Id. at 140.

This document confirms the foregoing sale executed on February 12, 1957 specifically in relation to a parcel of land with an area of 375 square meters. Respondent heirs, who eventually substituted Tomas, argued that their predecessors have always been in possession of the 702-square-meter property since its sale.¹³

Ruling of the Regional Trial Court

After trial proceedings, the RTC rendered a Decision¹⁴ dated 08 July 2008 in favor of Gaudencia and her heirs. In the three-page Decision, the RTC held that Tomas and respondents' evidence were inadmissible as the originals were not presented in open court. Tomas failed to prove the authenticity and due execution of the documentary evidence, particularly the Deed of Absolute Sale dated February 12, 1957 and Affidavit of Adjudication with Confirmation of Sale dated April 11, 1975. The RTC found that Tomas only owns the portion of land where his two-storey house is located "and no others." Gaudencia and her heirs remain to be the owners of the 3,088 square meter property covered by Tax Declaration No. 20772. The RTC also awarded Gaudencia and her heirs moral and exemplary damages, attorney's fees, and litigation expenses.¹⁵

Ruling of the Court of Appeals

Respondents filed an ordinary appeal with the CA. On March 19, 2015, the CA rendered the assailed Decision¹⁶ reversing and setting aside the ruling of the RTC and dismissing petitioner's complaint.

Following the principles under Article 434 of the Civil Code of the Philippines,¹⁷ the CA held that in actions to recover property, Gaudencia and heirs are burdened to prove the identity and title to the property they claim.¹⁸ The disparity in the boundaries of the properties stated in Tax Declaration No. 20772 relied upon by petitioners and in the Deed of Absolute Sale dated February 12, 1957 executed by Victoriano negates proving the identity of the property in dispute. The testimony of Gaudencia's witness even failed to enlighten the CA of the area and location of the property that petitioners are claiming.¹⁹ The CA also ruled that there was no proof of Gaudencia's ownership of the parcel of land covered by Tax Declaration No. 20772. Although Tax Declaration No. 20772 and tax receipts were issued in Victoriano's name, such was inconclusive proof of Gaudencia's ownership. Petitioners also failed to explain the basis of varied tax declaration numbers indicated on the receipts to claim that such were receipts for the property

¹³ Id. at 127-129.

¹⁴ Penned by Judge Santos T. Gil; id. at 76-78.

¹⁵ Id. at 77-78.

¹⁶ Supra note 2.

¹⁷ Article 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.

¹⁸ *Rollo*, p. 59.

¹⁹ Id. at 60-61.

covered by Tax Declaration No. 20772.²⁰

Anent respondents' evidence, the CA did not agree with the RTC and held that the pieces of documentary evidence submitted by Tomas have probative value that should be admitted. On record, the Deed of Absolute Sale dated February 12, 1957 executed by Victoriano and the Affidavit of Adjudication with Confirmation of Sale dated April 11, 1975 executed by Gaudencia are public records as the documents are in the custody of the Register of Deeds. The CA observed that the originals of said documents were brought to court by a representative from the Office of the Registry of Deeds for comparison with the copies marked in evidence. The CA noted that Gaudencia and heirs found and admitted the copies to be true and faithful reproductions of the originals. Finally, the CA denied payment of the RTC's money award.²¹

Proceedings before this Court

Displeased with the assailed Decision, petitioners filed the instant appeal by *certiorari* with this Court. Petitioners argue that the identity and ownership over the parcel of land covered by Tax Declaration No. 20772 were never raised as an issue at the trial proceedings.²² Petitioners aver that respondents even admit Gaudencia's ownership over such property as it is part of a mother lot from which a portion was occupied by respondents' predecessors, Ceferina and Tomas. Thus, the property undisputedly belongs to Gaudencia.²³

Petitioners found questionable respondents' claim to the property they are occupying. They emphasized that Tomas initially claimed ownership to an area of 375 square meters based from the Affidavit dated January 17, 1962, which he admitted executing.²⁴ He then made claims to 702 square meters based from the Deed of Absolute Sale dated February 12, 1957 executed by Victoriano and then reverted to a claim of 375 square meters based from the Affidavit of Adjudication with Confirmation of Sale dated April 11, 1975 executed by Gaudencia. The variance in the area only shows that respondents have no concrete basis to support their claim of ownership beyond the lot where their two-storey house was built. Notably, petitioners claim that the boundaries stated in these documents only describe one and the same property. Yet, the property differed in lot areas.²⁵

Petitioners further argue that the CA erred in emphasizing the disparities of the boundaries stated in Tax Declaration No. 20772 and the Deed of Absolute Sale dated February 12, 1957. The boundaries stated in

²⁰ Id. at 62-63.

²¹ Id. at 65-67.

²² Id. at 23.

²³ Id. at 24-25.

²⁴ In the Pre-Trial Order dated March 9, 1993, the RTC noted Tomas Molina's admission that the Affidavit dated February 12, 1962 was filed with the Provincial Assessors Office to process the transfer of 375 square meters to Tomas Molina's name; id. at 132-133.

²⁵ Id. at 25-27.

Tax Declaration No. 20772 and the Deed of Absolute Sale dated February 12, 1957 apparently varied because Tax Declaration No. 20772 describes the remainder of Gaudencia's property after respondents' predecessors "carved out and segregated" a portion from the mother lot. In fact, a review of Tax Declaration No. 20772 and the Deed of Absolute Sale dated February 12, 1957 will show that the properties described therein are adjoining lots. In Tax Declaration No. 20772, its west portion is bound by a parcel of land in the name of Tomas Molina, while in the Deed of Absolute Sale dated February 12, 1957, the property described therein is bound in the east by a lot in the name of Felipe Mercado, the predecessor of Gaudencia from whom she inherited the property.²⁶

Finally, petitioners assert that the CA should not have considered any of respondents' evidence as such appear to be falsified and have badges of irregularity.²⁷ Apart from respondents' varying claims of lot areas, petitioners note Tomas's admission in executing the Affidavit dated January 17, 1962, which states the sale of 375 square meters in 1938 by Felipe Mercado. However, no sale could have taken place because the latter already passed away in 1913. Further, the Deed of Absolute Sale dated February 12, 1957 executed by Victoriano states that the document was entered in the notarial register of Attorney Leoncio Alvares Cinco in 1957, but the acknowledgment in the same document states that it was notarized in 1960. Assuming that all of respondents' documents are admissible, the same only prove that Gaudencia is the owner of the property in dispute and that respondents only own the portion of property where their original two-storey house was built.²⁸

In the comment, respondents note that petitioners prayed for review of factual issues. Rule 45 of the Rules of Court provides that matters to be raised under this remedy shall only be questions of law. Thus, the petition should be dismissed outright.²⁹

Respondents also asserted and reiterated the Decision of the CA that petitioners failed to establish the identity of the property they are claiming to own. Following Article 434 of the Civil Code, which states that "the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim," petitioners have the burden to prove the identity and title to the property subject of the case. Respondents argue that it was an error for petitioners to focus on the discrepancies of the lot areas stated in respondents' evidence to support their position that respondents have no claim to the property.³⁰

In any case, respondents argue that the discrepancies noted by

²⁶ Id. at 31-34.

²⁷ Id. at 39.

²⁸ Id. at 41-43.

²⁹ Id. at 183-184.

³⁰ Id. at 184-187.

petitioners are “more apparent than real.”³¹ Based from the Deed of Absolute Sale dated February 12, 1957, Ceferina and Tomas clearly purchased a 702-square-meter property from Victoriano as witnessed by Gaudencia. This sale, particularly on a parcel of land with an area of 375 square meters, is confirmed in the Affidavit of Adjudication with Confirmation of Sale executed by Gaudencia dated April 11, 1975. While the document only confirms the sale of 375 square meters, respondents argued that such confirmation did not preclude the fact that Victoriano likely sold another portion of land to add up to 702 square meters as stated in the Deed of Absolute Sale dated February 12, 1957. Furthermore, the fact that Tomas admitted to the execution of the Affidavit dated January 17, 1962, does not mean that no sale had taken place between Victoriano and respondents’ predecessors over a parcel of land with 702 square meters. Petitioners should independently identify their claim to the property purchased by respondents’ predecessors from Victoriano. Respondents emphasized that petitioners’ pointing at respondents’ land is not the identification required under Article 434 of the Civil Code. Regardless, respondents’ evidence do not show that petitioners own respondents’ land.³²

Petitioners filed a reply reiterating their arguments. Thereafter, parties filed their respective memoranda.

Ruling of the Court

Rule 45 is explicit that only questions of law shall be raised in availing the remedy of an appeal by *certiorari*.³³ However, the Court admits of exceptions to exercise its judicial discretion, particularly, when the findings of the CA are contrary to those of the trial court.³⁴ In this case, the CA reversed and set aside the ruling of the RTC. Thus, We may undertake a re-examination of the evidence presented by the parties to prudently make a decision.

In actions for reconveyance, the plaintiff is “duty-bound to clearly identify the land sought to be recovered, in accordance with the title on which one anchors [their] right of ownership.”³⁵ In other words, the plaintiff must prove: (1) the identity of the land claimed; and (2) one’s title.³⁶ The burden on plaintiff is embodied in Article 434 of the Civil Code of the Philippines, which states that “[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant’s claim.”

We cannot agree with the CA’s findings of petitioners’ failure to

³¹ Id. at 188.

³² Id. at 188-189.

³³ RULES OF COURT, Rule 45, Section 1.

³⁴ See *Locsin v. Hizon*, 743 Phil. 420 (2014), citing *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, 665 Phil. 784 (2011).

³⁵ *Heirs of Julao v. Spouses De Jesus*, 744 Phil. 287, 298 (2014).

³⁶ *Jakosalem v. Barangan*, 682 Phil. 130, 139 (2012).

identify and prove title to the property in dispute. We first determine petitioners' title over the property subject of this case. Petitioners' position that Gaudencia inherited from her grandfather a parcel of land in Barangay Sto. Nino, Tanauan, Leyte is undisputed. It is also undisputed that respondents' predecessors purchased a portion thereof. Consistent with petitioners' claim, the respondents even presented in evidence a survey plan showing a parcel of land or the mother lot situated in Barangay Sto. Nino, Tanauan, Leyte.³⁷ The survey plan is for a parcel of land designated as Lot No. 1444, which plots points 1 to 9 consisting an area of 3,834 square meters.³⁸ Points 2,3,4,5 and 6 represent a bigger portion of the mother lot and points 1,2,7,8, and 9 in the survey plan were identified by respondents themselves as the disputed portion of property.³⁹ Moreover, respondents' witness, Exuperio Molina, youngest son of Tomas, explained that the property they claim to be owners of, had been in their predecessor's possession since its purchase from Gaudencia.⁴⁰ This is clear admission that Gaudencia is originally the owner not only of the property in dispute, but also, the mother lot. From the foregoing, We hold that Gaudencia's title over the portion of property subject of this case is not even an issue. The more pressing matter to be resolved is the identity of, more specifically, the lot area that respondents are really entitled to possess.

To prove their claim, respondents presented several pieces of documentary evidence, which petitioners argued should be excluded from the record for failure to present the originals and to prove their due execution and authenticity. We, however, agree with the CA that the documentary evidence presented by respondents are admissible in evidence. On record,⁴¹ We find that the originals from the records of the Office of the Register of Deeds were brought to the RTC by a representative from the office. Petitioners, through their counsel, was afforded opportunity to go through the records and compare the same with copies marked in court, which the counsel stipulated to be true and faithful reproductions of the originals. Thus, petitioners' claim to deny the respondents evidence has no basis.

We find respondents entitled to 702 square meters of the property inherited by Gaudencia. Respondents presented the Deed of Absolute Sale dated February 12, 1957 for an area of 702 square meters.⁴² We find this sale undisputed as petitioners even claimed that a sale took place in the late 1950's between their predecessors, Victoriano and Gaudencia, and respondents' predecessors.⁴³ The approximated date by petitioners corresponds to the date of the Deed of Absolute Sale executed by Victoriano on February 12, 1957.⁴⁴ Other than an allegation, petitioners failed to present any evidence that the sale over the 702-square-meter property did

³⁷ *Rollo*, p. 141.

³⁸ *Id.*

³⁹ *Id.*; marked as Exhibit "4-A"; TSN dated January 27, 2000, pp. 23-24.

⁴⁰ TSN dated January 27, 2000, p. 19.

⁴¹ Records, p. 27; TSN dated July 20, 2000 pp. 2-9.

⁴² *Rollo*, p. 139.

⁴³ *Id.* at 120.

⁴⁴ *Id.* at 139.

not take place. We give credence to respondents' position on the validity of this sale as Gaudencia herself signed as a witness to the Deed of Absolute Sale.⁴⁵ She also did not dispute the same when a copy of the document was presented to her at the deposition-taking conducted at the Philippine Consulate in Winnipeg, Manitoba, Canada.⁴⁶ We are also unconvinced of petitioners' claim of notarial irregularities in the Deed of Absolute Sale. A close inspection of the date on the notary public's certificate of acknowledgment shows that the year 1960 had been superimposed in the year 1957.⁴⁷ Thus, We find no inconsistency in the date of entry in the notarial registry of Attorney Leoncio Alvares Cinco in 1957. Notably, Gaudencia herself executed an Affidavit of Adjudication with Confirmation of Sale, verifying that a Deed of Absolute Sale had indeed been executed by Victoriano on February 12, 1957 and entered in the Notarial Registry of Attorney Leoncio Alvares Cinco in 1957, to wit:

That I hereby covenant and agree that I acknowledge, affirm and confirm the **sale of the abovedescribed property executed by my husband Victoriano Cumpio in favor of the Spouses Tomas Molina and Ceferina Cumpio on February 12, 1957, as appearing in Doc. No. 94, Page No. 15, Book 2, Series of 1957, before Notary Public Leoncio A. Cinco of Tanauan, Leyte** and that I hereby abandon, quitclaim and renounce all rights, interests and participations over this property whether such rights, interests and participation is real, inchoate and contingent.⁴⁸ (Emphasis supplied)

The abovequoted is clear that Gaudencia confirms the sale of property in the contract recorded in Attorney Leoncio Cinco's notarial register as Doc. No. 94, Page No. 15, Book 2, Series of 1957, notably the same notarial register details in the Deed of Absolute Sale executed by Victoriano dated February 12, 1957.⁴⁹ Without doubt, Gaudencia confirmed the sale of the property with 702 square meters indicated in said contract.

Finally, respondents presented in evidence the lot survey for Lot No. 1444, showing the portion of property that they claim as owners. As discussed, the portion of property claimed by respondents is identified to be bound by points 1,2,7,8, and 9⁵⁰ and not the entire Lot No. 1444. The lot survey approximates the entirety of Lot No. 1444 to consist an area of 3,834 square meters. Petitioners claimed that after Tomas segregated the area that he claims to own, the remaining portion now consists an area of 3,088 square meters as shown in Tax Declaration No. 20772 issued in the name of Victoriano.⁵¹ We observe that when the area of 3,088 square meters is deducted from the entirety of Lot No. 1444 with an area of 3,834 square

⁴⁵ Id.
⁴⁶ Records, p. 203.
⁴⁷ *Rollo*, p. 139.
⁴⁸ Id. at 140.
⁴⁹ Id. at 139.
⁵⁰ Id. at 141.
⁵¹ Id. at 123-124.

meters, the difference is 746 square meters, which corresponds to the smaller portion of Lot No. 1444 identified to be bound by points 1,2,7,8, and 9 in the lot survey.⁵² The area comes close to respondents claim of 702 square meters, convincing Us further that Tomas could not have encroached on Gaudencia's property of 3,088 square meters. The area of 746 square meters cannot be taken as the final figure for respondents' claim as such was computed from the lot survey, which merely represents an approximation of the area over the entire Lot No. 1444. Moreover, and as discussed, respondents' claim is based on the Deed of Absolute Sale stating the sale over a parcel of land with 702 square meters. Thus, their claim cannot exceed beyond such area.

WHEREFORE, the petition is **DENIED**. The Decision dated March 19, 2015 of the Court of Appeals in CA-G.R. CEB CV No. 03494 is **AFFIRMED with MODIFICATION**, on the basis of the above discussion, and **DISMISSING** the Complaint for Reconveyance.

SO ORDERED.”

By authority of the Court:

Mis-POCBatt
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Division Clerk of Court
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⁵² Id. at 141.