



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 March 2022** which reads as follows:*

“G.R. No. 240798 (Spouses Paulino Ascaño and Conchita Ascaño, substituted by heirs, Zenaida A. Daquel,* et al. v. Ernesto Bandiola, substituted by heirs, Jessebel B. Villanueva, et al.) – This resolves the petition for review on *certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated November 29, 2017 and the Resolution³ dated June 18, 2018 of the Court of Appeals (CA) in CA-G.R. CV No. 04735. The CA dismissed the appeal filed by petitioners Spouses Paulino Ascaño (Paulino) and Conchita Ascaño (Conchita) — substituted by their heirs Zenaida A. Dacquel, Erlinda Ascaño, Paulita A. Enguyen, Ma. Melinda A. Lopez, Antonio Ascaño, Celigunda Ascaño, and Yolanda A. Sebastian (collectively, petitioners) — from the Decision⁴ dated September 7, 2012 of the Regional Trial Court of Kalibo, Aklan, Branch 7 (RTC) in Civil Case No. 5255.

The civil case involves an unregistered parcel of land in Manoc-Manoc, Malay, Aklan denominated as Lot No. 104 claimed by petitioners and respondent Ernesto Bandiola (Ernesto), substituted by heirs, Jessebel B. Villanueva (Jessebel), Francisco Bandiola, Ignacio Bandiola, Roque Bandiola, Adoni Bandiola, Ernesto Bandiola, Jr., Laila B. Anicoy, Jaybe B. Duluguin, Ernelina Bandiola, Gina B. Cruz, Alona B. Maming, Bofil Bandiola, Davy Bandiola, and Angelina E. Bandiola (collectively, respondents).⁵

* “Dacquel” in the Amended Complaint, *rollo*, p. 138; and in the assailed decision and resolution, *id.* at 103 and 132, respectively.

¹ *Rollo*, pp. 13-30.

² *Id.* at 103-117. Penned by Associate Justice Pamela Ann Abella Maxino, with Associate Justices Germano Francisco D. Legaspi and Gabriel T. Robeniol, concurring.

³ *Id.* at 132-136. Penned by Associate Justice Pamela Ann Abella Maxino, with the concurrence of Associate Justices Marilyn B. Llagura-Yap and Gabriel T. Robeniol.

⁴ *Id.* at 70-76. Penned by Judge Nelson J. Bartolome.

⁵ *Id.* at 103.

The CA summarized the case in this wise:

On March 14, 1997, petitioners filed a Complaint dated February 28, 1997 before the RTC seeking for the annulment of a deed of sale and for quieting of title against respondents and Poligena Bondaon (Bondaon). In their complaint, petitioners averred that they were the owners of a certain lot in Manoc-Manoc, Malay, Aklan and that they had recently discovered that respondents had sold said property to Bondaon. Consequently, they alleged that the sale between the latter parties was null and void *ab initio*, and prayed that it be annulled.⁶

Petitioners averred that Conchita purchased Lot No. 104 from Lucas Gelito (Lucas) through a Deed of Sale dated August 15, 1969. The money paid to Lucas was used to redeem the property which, at the time of the sale, was mortgaged to and under the name of the Development Bank of Philippines (DBP). Thereafter, Conchita and her family had Pedrito Gelito (Pedrito) oversee the property and serve as its caretaker. According to Pedrito, the Ascaños owned the property and were undisturbed in their possession until sometime in the 1990s when respondents began possessing the subject property. He reported the incident to the Ascaños and the latter began to “look for the missing portion” of the land they purchased from Lucas, leading to the survey of the land sometime in 1995.⁷

As evidence of ownership, petitioners presented two (2) deeds of sale, one with Lucas and another with DBP. They also presented several tax declarations in the name of Conchita, which marked boundaries with names of persons: “North — Valentin Santiago, Visayan Sea; South — Ignacio Bandiola, Aquilina Gelito; East — Manuel & Anacleta Gelito, Visayan Sea; West – Aquilina Gelito, Epafania Sadiasa.” Moreover, the property was referred to as Lot No. 104-pt in ARP/TD No. 2344 only for the year 1997. As for the lands bordering the disputed property, they are referred to with specific lot numbers beginning only in the tax declaration for the year 1994.⁸

For their part, respondents denied petitioners’ allegations in their Answer dated June 6, 1997. They claimed that they are the owners of Lot No. 104 which was part of a large tract of land owned by Ignacio Bandiola (Ignacio), the late father of respondent Ernesto. This property originally covered 87,766 square meters. The area was increased when Ignacio purchased two (2) adjoining lots — one from Anunciacion Gelito, with an area of 6,550 square meters, and the other from Quirico Lumbo, with an area of 4,994 square meters. Thus, Ignacio was in actual possession of the entire property with an area of 99,130 square meters.⁹

⁶ Id.

⁷ Id. at 108.

⁸ Id.

⁹ Id.

Since 1951, respondent spouses resided on a portion of the property of Ignacio after their marriage. Moreover, on several occasions, respondents' family sold portions of the property in various extents. On March 25, 1976, Ignacio sold a portion of his property with an area of 32,204 square meters to his son Ernesto, which portion included the subject property. The rest of the property was sold to Estela Bandiola and Teodorica Bandiola, the siblings of Ernesto.¹⁰ Angelina also attested that the 32,204-square-meter lot was subdivided into Lot Nos. 99 and 104. Tax declarations over both lots were issued to Ernesto.¹¹ Later on, respondent spouses sold another portion of Lot No. 104 to Bondaon in 1996, which portion is also subject of the complaint.¹²

In 1985, Ernesto allowed Gregorio Aniversario (Gregorio) to live on Lot No. 104. Gregorio rented a portion of the subject property with an area of 1,500 square meters from the former as evidenced by receipts issued by various children of the former. He also built a concrete structure on the property, which was destroyed in a storm in 1986, and replaced with a "kubo" made of light materials immediately thereafter. By 2003, Gregorio purchased the 1,500-square-meter portion he had been renting through a deed of sale dated October 11, 2003.¹³

Previously, in an Answer dated May 27, 1997, Bondaon manifested that respondents had already agreed to sell her a different property in lieu of Lot No. 104 in order to avoid litigation, which was affirmed during a pre-trial conference on September 10, 1997. Consequently, the RTC ordered Bondaon dropped as a defendant in an Order dated October 27, 1997.¹⁴

In an Order¹⁵ dated September 10, 1997, the RTC appointed Immanuel Tigpos (Immanuel) as the Court Commissioner and tasked him to survey the disputed property and indicate on a sketch plan the respective areas claimed by the parties. Thus, Tigpos submitted a Report and sketch to the RTC dated October 17, 1997. In his sketch, Lot No. 104 was divided into two (2) portions. The first portion, with an area of 5,563 square meters, was labeled as "CONCHITA ASCAÑO VS. HEIRS OF IGNACIO BANDIOLA." while the second portion, with an area of 4,104 square meters, was labeled as "HRS. OF LUCAS GELITO VS. HRS. OF IGNACIO BANDIOLA." Next to this, the sketch also indicated that the second portion of Lot No. 104 is "NOW PART OF (THE) CLAIM OF SPS. PAULINO & CONCHITA ASCAÑO VS. HRS. OF IGNACIO BANDIOLA." In the Commissioner's Report, Immanuel explained that he did not personally survey the property and his sketch was based on a previous sketch that the parties agreed to be the correct representation of their claims and conflict.¹⁶

¹⁰ Id. at 109.

¹¹ Id.

¹² Id. at 110.

¹³ Id. at 109-110.

¹⁴ Id. at 105.

¹⁵ Id.

¹⁶ Id.

Conchita died on April 18, 1999. Upon motion, the RTC, in an Order¹⁷ dated October 18, 1999, substituted Conchita with her seven (7) children, namely: petitioners Zenaida A. Dacquel, Erlinda Ascaño, Paulita A. Enguyen, Ma. Melinda A. Lopez, Antonio Ascaño, Celigunda Ascaño and Yolanda A. Sebastian. Consequently, in an Amended Complaint,¹⁸ petitioners included another parcel of land, the second portion of Lot No. 104:

2. That the plaintiffs are the owners of two (2) parcels of land both located at Manoc-Manoc, (*sic*) Malay, Aklan, Philippines, and more particularly described as follows:

PARCEL ONE:

A parcel of land (Lot No. 104 pt.) with an area of 5,563 square meters, more or less, bounded on the North by Sibuyan Sea; on the SE., by Lot 99; on the S.W., by Lot 98-A; and on the West by Lot 104-pt. This parcel of land is declared under ARP/TD No. 2344 and assessed at P14,910.00.

PARCEL TWO:

A parcel of land (Lot No. 104-pt.) with an area of 3,840 square meters, more or less, bounded on the North by Visayan Sea; on the East by Visayan Sea & Lot 104-pt.; on the South by Lot No. 98-A; and on the West by Lot 105-pt. This parcel of land is declared under ARP/TD No. 2347 and assessed at P9,600.00. (emphasis supplied)¹⁹

Meanwhile, respondent Ernesto Bandiola died on February 16, 2000. Upon motion, the RTC, in an Order²⁰ dated June 9, 2003, substituted Ernesto with his 13 children, namely: respondents Jessebel, Ignacio, Francisco Bandiola, Roque Bandiola, Adoni Bandiola, Ernesto Bandiola, Jr., Laila B. Anicoy, Jaybe B. Duluguin, Elnelina Bandiola, Gina B. Cruz, Alona B. Maming, Bofil Bandiola, and Davy Bandiola.

In a Decision²¹ dated September 7, 2012, the RTC ruled in favor of respondents and dismissed the complaint, declaring they have a better right to possession and ownership over the subject property:

WHEREFORE, premises considered, judgment is hereby rendered:

- 1) Dismissing the Amended Complaint.
- 2) Declaring the defendants to have the better right to possession and ownership over the two (2) parcels of land described in the Amended Complaint.
- 3) Ordering the plaintiffs to pay costs of suit.

SO ORDERED.²²

¹⁷ Id. at 105-106.

¹⁸ Id. at 38.

¹⁹ Id. at 38-39.

²⁰ Id. at 106-107.

²¹ Id. at 46-52.

²² Id. at 52.

p7/20

Aggrieved, petitioners sought the reversal of the foregoing decision before the CA.²³ They averred that the trial court erred in ruling that the evidence presented by petitioners are insufficient, and maintained that they have the better right to ownership and possession.²⁴

In a Decision²⁵ dated November 29, 2017, the CA affirmed the judgment of the court *a quo* and ruled that petitioners failed to present sufficient evidence to demonstrate their ownership and possession over the subject property. The CA further ruled that the RTC was correct in finding that respondents had demonstrated their possession under a claim of ownership, thus securing in their favor a disputable presumption of ownership.²⁶

Petitioners moved for reconsideration but was denied by the CA in a Resolution dated June 18, 2018.²⁷

Hence, this petition.

In their Comment²⁸ dated November 26, 2018, respondents argued that the CA was correct in dismissing the appeal and ruling that they had a better right of ownership and possession. They emphasized that they exercised various acts of ownership over the property, such as selling and leasing the property and as well as paying realty taxes. In contrast, petitioners failed to establish an identity of cause of action and subject matter.

In a Resolution²⁹ dated September 18, 2019, this Court noted that petitioners failed to file a reply to the Comment on the petition for review on *certiorari*, as required in the Resolution³⁰ dated April 8, 2019, within the period required and thus deemed the filing of the Reply as waived.

This case presents only one principal issue: did the CA correctly affirm the RTC's finding that petitioners failed to establish their right to ownership and possession over the property?

We rule in the affirmative.

At the outset, the Court has repeatedly emphasized that our jurisdiction under Rule 45 of the Rules of Court is limited only to errors of law as We are not a trier of facts.³¹ It is not our function to analyze or weigh all over again evidence

²³ Id. at 103.

²⁴ Id. at 111.

²⁵ Id. at 103-117.

²⁶ Id. at 113.

²⁷ Id. at 132-136.

²⁸ Id. at 146-163.

²⁹ Id. at 175.

³⁰ Id. at 173.

³¹ Rule 45, Section 1 of the 1997 Rules of Civil Procedure states:

p. 7/22

already considered in the proceedings below.³² As distinguished from a question of law — which exists “when the doubt or difference arises as to what the law is on a certain state of facts” — “there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts”; or when the “query necessarily invites calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation.”³³

After a careful and judicious evaluation of the Court, it finds no sufficient basis to depart from the factual findings of the RTC as affirmed by the CA. It is settled that the findings of the trial court are entitled to great weight and respect, and are deemed final and conclusive on this Court especially when supported by the evidence on record.³⁴ Verily, we are reluctant to re-assess evidence adduced by the parties if the findings of both the RTC and the CA completely coincide.³⁵

There is preponderant evidence on record to support the conclusion of both the appellate court and the trial court that respondents, being the lawful owner of the subject property, are entitled to the possession of Lot No. 104.

In civil cases, the burden of proof rests upon the plaintiff who must establish their case by preponderance of evidence. Preponderance of evidence is the evidence that is of greater weight, or more convincing, than the evidence offered in opposition to it. It is proof that leads the trier of facts to find that the existence of the contested fact is more probable than its non-existence. Once the plaintiff makes out a *prima facie* case in his favor in the course of the trial, however, the duty or the burden of evidence shifts to the defendant to controvert plaintiff's *prima facie* case, otherwise, a verdict must be returned in favor of plaintiff.³⁶

To the mind of the Court, the CA is correct in affirming the RTC's finding that respondents, in contrast to petitioners, have established a superior claim over Lot No. 104 by demonstrating their possession under a claim of ownership thereby securing in their favor a disputable presumption of ownership, *viz*:

At this juncture, We must now determine if plaintiffs-appellants were able to successfully prove possession of the disputed property. They assert that they had

SECTION 1. *Filing of Petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

³² *Spouses Eugenio Ponce and Emilana Nerosa v. Jesus Aldanese*, G.R. No. 216587, August 4, 2021, citing *Gatan v. Finarao*, 820 Phil. 257, 265 (2017) and *Miro v. Vda. de Erederos*, 721 Phil. 772, 785-787 (2013).

³³ *DST Movers Corporation v. People's General Insurance Corporation*, 778 Phil. 235, 246 (2016), citing *Cheesman v. Intermediate Appellate Court*, 271 Phil. 89, 97-98 (1991).

³⁴ *Dimaranan v. Heirs of Spouses Arayata*, 631 Phil. 100, 112 (2010)

³⁵ *Bank of the Philippine Islands v. Leobrero*, 461 Phil. 461, 469 (2003).

³⁶ *Far East Bank & Trust Company v. Chante*, 719 Phil. 221, 234 (2013).

Pedrito Gelito act as the caretaker of the property. As noted by the RTC, they anchor their argument on the fact that they had a person oversee their purported property. However, when weighed against the acts of defendants-appellees, such as leasing and subsequently selling a portion of the property to Gregorio Aniversario, and their aborted sale of another portion of Lot No. 104 to Poligena Bondaon, plaintiffs-appellants' exercise of ownership falls short. Defendants-appellees have better demonstrated their possession of the property.

Having better demonstrated their possession under claim of ownership, defendants-appellees have in their favor a disputable presumption of ownership. To rebut this, plaintiffs-appellants have neither sufficiently proven the identity of the property nor demonstrated strength of their title over such property thru the tax declarations presented.³⁷

Moreover, petitioners contend that they have a better right of ownership and possession over the property in reliance of the civil case between Ignacio and Lucas, averring that respondents are bound by *res judicata*.³⁸

In *Spouses Aboitiz v. Spouses Po*,³⁹ the Court reiterated the concept of *res judicata* as follows:

Res judicata embraces two (2) concepts: (i) bar by prior judgment and (ii) conclusiveness of judgment, respectively covered under Rule 39, Section 47 of the Rules of Court, paragraphs (b) and (c):

Section 47. *Effect of judgments or final orders.* — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

Res judicata in the concept of bar by prior judgment proscribes the filing of another action based on “the same claim, demand, or cause of action.” It applies when the following are present: (a) there is a final judgment or order; (b) it is a judgment or order on the merits; (c) it was “rendered by a court having

³⁷ *Rollo*, p. 113.

³⁸ See Petition for Review, *rollo*, p. 21.

³⁹ 810 Phil. 123 (2017).

jurisdiction over the subject matter and parties”; and (d) there is “identity of parties, of subject matter, and of causes of action” between the first and second actions.

Res judicata in the concept of conclusiveness of judgment applies when there is an identity of issues in two (2) cases between the same parties involving different causes of action. Its effect is to bar “the relitigation of particular facts or issues” which have already been adjudicated in the other case.⁴⁰

However, as discovered by the CA to which the Court concurs, neither forms of *res judicata* apply as there is no identity of cause of action between the foregoing case and the present case because the first case arose from allegations that Lucas possessed the subject property and Ignacio sought to recover the same. Consequently, the present case arose from the alleged illegal possession of the heirs of the latter, which petitioners seek to enjoin. In addition, the identity of the property is not properly established as the sketches prepared by the Court Commissioner show a variance between the two (2) cases.⁴¹

WHEREFORE, the present petition for review on *certiorari* is DENIED. The Decision dated November 29, 2017 and the Resolution dated June 18, 2018 of the Court of Appeals in CA-G.R. CV No. 04735 are hereby AFFIRMED.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *by 7/20*

20 JUL 2022

⁴⁰ Id. at 152-153.

⁴¹ *Rollo*, pp. 114-115.

IBADLIT AND IBADLIT LAW OFFICES (reg)
(Atty. Marienne M. Ibadlit)
Counsel for Petitioners
2F, Policarpio Building corner
G. Ramos and Archbishop Reyes Streets
Kalibo, Aklan

ATTY. HIGINO C. MACABALES (reg)
Counsel for Respondents
2F Bragg and Macabales Bldg. corner
Archbishop Reyes Street and Veterans Avenue
Kalibo, Aklan

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 7
Kalibo, Aklan
(Civil Case No. 5255)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (reg)
Visayas Station
Cebu City
CA-G.R. CV No. 04735

Please notify the Court of any change in your address.
GR240798. 03/28/2022(82)URES

4/7/22