



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 17, 2023** which reads as follows:*

“G.R. No. 232594 (Antonia Prepose¹ v. Benedict Querrer, Noli Querrer, or any other persons acting under their authority).—Assailed in this Petition for Review on *Certiorari*² are the March 20, 2017 Decision³ and the June 30, 2017 Resolution⁴ of the Court of Appeals (CA) in CA-G.R. CV No. 106268, which affirmed the October 6, 2015 Decision⁵ of the Regional Trial Court (RTC) of Bauang, La Union, Branch 67 in Civil Case No. 1972-BG dismissing the Complaint⁶ for Recovery of Possession and Damages with Application for the Issuance of a Writ of Preliminary Mandatory Injunction against respondents for lack of cause of action.

The Facts

On August 20, 2010, petitioner Antonia Prepose along with Celedonia Laconsay,⁷ (Laconsay) filed a Complaint for Recovery of Possession and Damages with Application for the Issuance of a Writ of Preliminary Mandatory Injunction before the RTC of Bauang, La Union.⁸ In the Complaint, petitioner and Laconsay stated that Ciriaco Prepose and Pedro Prepose were the registered co-owners of a parcel of land situated in Barrio Pagdalagan, Municipality of Bauang, La Union with an area of 2,806 square meters and covered by Original Certificate of Title (OCT) No. RO-2180 (7802).⁹ Petitioner is the daughter of the late Ciriaco while Laconsay is the

¹ Also spelled as Priposi in some parts of the records.

² *Rollo*, pp. 12-26.

³ *Id.* at 30-36. Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Fernanda Lampas Peralta and Victoria Isabel A. Paredes

⁴ *Id.* at 38-39.

⁵ *Id.* at 56-61. Penned by Judge Ferdinand A. Fe.

⁶ *Records*, pp. 5-7.

⁷ *Id.* at 192-194, 203-204; On October 2, 2013, petitioner’s counsel filed a Motion for Substitution of Party and notified the court of Celedonia Laconsay’s death on October 24, 2011. The Motion was granted by the Regional Trial Court.

⁸ *Id.* at 5-7.

⁹ *Id.* at 5-6.

daughter of the late Pedro.¹⁰

On November 18, 1992, the heirs of Ciriaco and Pedro executed an Extra-Judicial Settlement of a Estate with Sale,¹¹ wherein the property covered by OCT No. RO-2180 (7802) was partitioned and divided among their heirs, including petitioner and Laconsay. In support of the foregoing statements, petitioner and Laconsay attached copies of Transfer Certificate of Title No. (TCT) RT-1845 (51971) in the name of petitioner,¹² Property Record in the name of Laconsay,¹³ Extra-Judicial Settlement of a Estate with Sale,¹⁴ OCT No. RO-2180 (7802),¹⁵ and a Survey Plan of the disputed portion.¹⁶

Petitioner and Laconsay claimed, in their Complaint, that respondents Benedict Querrer and Noli Querrer built a concrete fence in the 198-square-meter area intended as a right of way for petitioner and Laconsay, and other occupants of the land originally covered by OCT RO-2180 (7802).¹⁷ Petitioner and Laconsay further asserted that the disputed property was their only access to the barangay road leading to the national highway.¹⁸

In response to the foregoing allegations, respondents alleged in their Answer with Affirmative Defenses and Counterclaim with Opposition to the Application for the Issuance of a Writ of Preliminary Mandatory Injunction and Prayer to Dismiss¹⁹ that they are co-owners of a 360-square-meter parcel of land situated in Pagdalagan Sur, Municipality of Bauang, La Union located on the eastern side of the property covered by OCT No. RO-2180 (7802). Respondents claimed that they inherited the property covered by A.R.P. No. 021-00262 from their father, the late Simeon L. Querrer, who was indicated as registered owner of the land in Tax Declaration No. 10957 issued by the Assessor's Office of the Municipality of Bauang, La Union.²⁰

Respondents admitted that, sometime in 2009, they constructed a concrete fence on their property but claimed that they only proceeded to do so after faithfully complying and observing the proper and exact boundaries as set in Tax Declaration No. 10957.²¹ Respondents claimed that Local Assessment Operation Officer 1 Jerry Federico of the Municipal Assessor's Office was present around the time of construction of the fence and the latter confirmed that the construction was done within the proper and exact

¹⁰ Id. at 164; Judicial Affidavit of Antonia Prepose; TSN, August 29, 2012, p. 6.

¹¹ Records, pp. 11-15.

¹² Id. at 9.

¹³ Id. at 10.

¹⁴ Id. at 11-15.

¹⁵ Id. at 16-17.

¹⁶ Id. at 18.

¹⁷ Id. at 6.

¹⁸ Id.

¹⁹ Id. at 26-49.

²⁰ Id. at 39-40.

²¹ Id. at 40.

boundaries of respondents' ownership.²²

During the trial, petitioner testified, as well as retired Geodetic Engineer Melecio A. Abenes (Abenes), who prepared the Sketch Plan of the disputed portion with his son, Melecio G. Abenes, Jr., on June 25, 2011. Respondents did not testify in open court nor did they present any witnesses.²³

Ruling of the Regional Trial Court

In a Decision dated October 6, 2015,²⁴ the RTC dismissed the complaint for lack of cause of action. The trial court noted that all 2,806 square meters of land indicated in OCT No. RO-2180 (7802) were already allocated to the heirs and successors-in-interest of Ciriaco and Pedro as shown in the Extra-Judicial Settlement of a Estate with Sale and the Approved Subdivision Plan prepared on January 13, 1992. The RTC found that adding the excluded areas, including the disputed parcel of land, would unduly increase the area originally owned by Ciriaco and Pedro. Hence, the RTC concluded that the "portions excluded" mentioned in the OCT No. RO-2180 (7802) are not part of the lot originally owned by the predecessors-in-interest of petitioner and Laconsay.

Ruling of the Court of Appeals

In a Decision dated March 20, 2017,²⁵ the appellate court denied petitioner's appeal and affirmed the October 6, 2015 Decision of the trial court. Pursuant to Article 434 of the Civil Code, a person who claims a better right to recover ownership of real property must prove (1) the identity of the land claimed and (2) the claimant's title thereto.²⁶ The appellate court found that petitioner failed to prove the identity of the property sought to be recovered and their title thereto. The CA affirmed the findings of the trial court and also found that since the exact area of the original property is only 2,806 square meters, the addition of the disputed property would increase the area of the original property owned by petitioner's predecessors-in-interest. Since petitioner failed to prove the identity of the disputed property and their proof of ownership over the same, petitioner has no cause of action to recover possession of the disputed parcel of land.²⁷

Petitioner filed a Motion for Reconsideration²⁸ of the decision of the

²² Id.

²³ *Rollo*, p. 33.

²⁴ Records, pp. 46-51.

²⁵ *Rollo*, pp. 30-36.

²⁶ *Ibot v. Heirs of Tayco*, 757 Phil. 441, 450 (2015).

²⁷ *Rollo*, pp. 30-36.

²⁸ Id. at 38.

appellate court on July 7, 2017,²⁹ which was denied in the assailed Resolution dated June 30, 2017.³⁰ Hence, the instant Petition.

Issue

Did the CA err in finding that petitioner has no cause of action to recover the disputed property?

Our Ruling

The petition is bereft of merit.

In petitions for review on *certiorari* under Rule 45 of the Rules of Court, the jurisdiction of this Court is limited to review and revision of errors of law allegedly committed by the appellate court,³¹ and the factual findings of the lower courts bind this Court. The Rule, however, is not absolute and admits of exceptions, which includes, but are not limited to: (1) where the conclusion is a finding grounded entirely on speculation, surmises, and conjectures; (2) where the inference made is manifestly mistaken; (3) where there is grave abuse of discretion; (4) where the judgment is based on a misapprehension of facts; and (5) the findings of fact are premised on the absence of evidence and are contradicted by evidence on record.³²

In the present case, in order to determine if petitioner indeed has a cause of action to recover the disputed property, the Court must review the probative value of the evidence presented by the parties and entertain questions of fact, which are beyond the purview of petitions for review on *certiorari* under Rule 45. Upon review of the records, none of the aforementioned exceptions apply in the present case and it is apparent that the petition must be denied for lack of merit.

Article 434 of the Civil Code provides that to successfully maintain an action to recover real property, the person who claims to have a better right to it must prove the following: *first*, the identity of the land claimed, and *second*, his or her title to the same.³³

In civil cases, the burden of proof to establish the cause of action by a preponderance of evidence rests upon the plaintiff or claimant.³⁴

²⁹ Id. at 81-87.

³⁰ Id. at 38-39.

³¹ RULES OF COURT, Rule 45, Sec. 1; *Jose Juan Tong v. Go Tiat Kun*, 733 Phil. 581, 590 (2014); Section 1, Rule 45 of the Rules of Court reads: 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 *Heirs of Teresita Villanueva v. Heirs of Petronila Syquia Mendoza*, 810 Phil. 172, 178-179 (2017).

³³ *Belmonte v. Magas*, G.R. No. 240482, May 5, 2021.

³⁴ *Cathay Pacific Steel Corp. v. Uy, Jr.*, G.R. No. 219317, June 28, 2021

Preponderance of evidence is “evidence which is of greater weight or is more convincing than that which is in opposition to it” and “does not mean absolute truth; rather, it means that the testimony of one side is more believable than that of the other side, and that the probability of truth is on one side than on the other.”³⁵ Art. 434 of the Civil Code also expressly provides that the plaintiff must rely on the strength of his or her title and not on the weakness of the defendant’s claim. Hence, petitioner must prove the identity of the land claimed, their legal right or title over the disputed property, respondents’ obligation not to violate such right or title, and the act of respondents in violation of such right or title.³⁶

Petitioner relied on OCT No. RO-2180 (7802) in the name of their predecessors-in-interest, Ciriaco and Pedro, to prove that they are entitled to recovery of the disputed portion of land. Petitioner claims that the disputed property, included in the “portion excluded” mentioned in OCT RO-2180 (7802), was intended as a right of way for the petitioner and other occupants of the land.³⁷

OCT No. RO-2180 (7802) clearly indicates in the technical description therein that it covers 2,806 square meters of land in the Barrio of Pagdalagan, Municipality of Bauang:

A parcel of land (plan Psu-87995-Amd.), situated in the Barrio of Pagdalagan, Municipality of Bauang. **Bounded on the N. and E. by a portion excluded**, on the S. by property of Laureano Valdez, and on the W. by the South China Sea. Beginning at a point marked “1” on plan, being S. 25 deg. 13’ W., 212.02 m. from B. L. B. M. No. 1, Pagdalagan, San Fernando, thence S. 5 deg. 09’ E., 42.02 m. to point 2, thence S. 81 deg. 45’ W., 63.41m to point 3, thence N. 5 deg. 27’ W., 46.47m to point 4, thence N. 85 deg. 46’ E., 63.56 m. to the point of beginning, **containing an area of two thousand eight, hundred and six (2,806) square meters, more or less**. All points referred to are indicated on the plan and marked on the ground, bearings true, declination 0 deg. 07’ E., date of original survey, March 23 – 24, 1931, and that of the amendment survey, December 11, 1935.³⁸

Petitioner argues that the “portion excluded” indicated in OCT No. RO-2180 (7802) is also covered by the said title. However, the technical description in OCT No. RO-2180 (7802), which describes the metes and bounds of the property, categorically states that the parameters described contain “an area of two thousand eight, hundred and six (2,806) square meters, more or less.”³⁹ The exact parameters of the “portion excluded” mentioned in OCT No. RO-2180 (7802), which includes the disputed property claimed by petitioner in the present case, is not indicated in the title.

³⁵ Id.

³⁶ RULES OF COURT, Rule 2. Sec. 2; *Pilipinas Shell Foundation, Inc. v. Fredeluces*, 785 Phil. 409, 430 (2016).

³⁷ Records, p. 6.

³⁸ Id. at 16. Emphasis supplied.

³⁹ Id.

The technical description also does not provide the exact area of the “portions excluded,” particularly the alleged intended right of way.

In the Complaint, petitioner claims that respondents constructed their fence in the 198-square meter excluded portion intended as right of way of petitioner and other occupants of the land.⁴⁰ However, in the Judicial Affidavit of Abenes, he claims that the encroachment is 139.50 square meters.⁴¹ The Survey Plan prepared on June 25, 2011 and attached to the Judicial Affidavit of Abenes shows that the total area of the excluded portion on the eastern side of the properties of petitioner and their co-heirs is 178.5 square meters and the total area of all the excluded portions in the north and east of the property is 268.5 square meters.⁴² The area claimed by petitioner exceeds the area of the excluded portions on the eastern side of their property. It is, thus, not clear from petitioner’s Complaint which exact parts of the excluded portion she seeks to recover.

Furthermore, as stated in the Extra-Judicial Settlement of a Estate with Sale, the entire lot consisting of 2,806 square meters has already been allocated to the heirs and successors-in-interest of Ciriaco and Pedro, as seen in the table below:

Gloria P. Banaag	Lot 1	219 square meters
---	Lot 2	198 square meters
Carolina P. Flores	Lot 3	219 square meters
Camilo D. Prepose	Lot 4	219 square meters
Irenia D. Pulido	Lot 5	219 square meters
Pio T. Prepose, Jr., Donato T. Prepose and Eduardo T. Prepose	Lot 6	219 square meters
Antonia F. Prepose, Sotero F. Prepose, and Angeles P. Sorolla	Lot 7	417 square meters
Celedonia P. Laconsay	Lot 8	219 square meters
Bibiana P. Rizalvo	Lot 9	255 square meters
Antonia F. Prepose, Sotero F. Prepose, and Angeles P. Sorolla	Lot 10	206 square meters
Eduardo and Dominador Rizalvo	Lot 11	240 square meters
Antonia F. Prepose, Sotero F. Prepose, and Angeles P. Sorolla	Lot 12	176 square meters
		2,806 square meters ⁴³

⁴⁰ Id. at 6.

⁴¹ Id. at 175. Judicial Affidavit of Melecio A. Abenes.

⁴² Id. at 177.

⁴³ Id. at 14.

Although there is no owner indicated for Lot 2, the Extra-Judicial Settlement of a Estate with Sale includes a statement that “the parties agreed and covenanted to sell a portion of the land described above, consisting of 198 square meters, denominated as Lot 2 of the Subdivision Plan.”⁴⁴ In the Deed of Sale in the Extra-Judicial Settlement of a Estate with Sale, the parties agreed to the sale of Lot 2 to Remedios A. Urbana and Zenaida A. Flores,⁴⁵ as well as the sale of Lots 10 and 12 to Spouses Deogracias P. Baliton and Marlyn A. Baliton.⁴⁶ The shares of the parties are reflected in the Subdivision Plan approved by the Department of Environment and Natural Resources on January 20, 1993.⁴⁷

It is clear from the Extra-Judicial Settlement of a Estate with Sale and Approved Subdivision Plan that the technical description in OCT No. RO-2180 (7802) did not include the area of the “portions excluded” in the 2,806 square meters land area indicated therein. Even considering the Survey Plan attached to the Judicial Affidavit of Abenes, the total area of the “portions excluded” mentioned in OCT No. RO-2180 (7802) is 268.5 square meters,⁴⁸ which is in excess of the 2,608-square-meter land divided among the heirs and successors-of-interest of the Ciriaco and Pedro. Thus, as correctly held by the courts *a quo*, considering that all 2,806 square meters of the land have already been allocated to the heirs and successors-in-interest of Ciriaco and Pedro in the Extra-Judicial Settlement of a Estate with Sale, adding the “portions excluded” mentioned in OCT No. RO-2180 (7802) will unduly increase the property originally owned by the Prepose brothers. Considering the evidence presented by petitioners, the Court is unable to conclusively determine that the disputed property was indeed owned by the predecessors-in-interest, covered by OCT No. RO-2180 (7802), and eventually part of the property partitioned and granted to petitioner and their co-heirs.

Moreover, other than petitioner’s self-serving claim that Ciriaco and Pedro intended that the portions excluded are to be used as right of way of the occupants of the land,⁴⁹ petitioner did not provide any other evidence that this was indeed the intention of Ciriaco and Pedro, as well as the other owners of the affected lots in the area. In fact, aside from Laconsay, the owners of Lots 5 and 6, or the lots adjacent to the disputed property, and the owners of the other affected lots in the area did not join petitioner in her Complaint.

In failing to prove the identity of the disputed property as well as presenting petitioner’s title to the same, petitioner’s action to recover the disputed property must be dismissed for lack of cause of action. Hence,

⁴⁴ Id.

⁴⁵ Id. at 14-15.

⁴⁶ Id.

⁴⁷ Id. at 210.

⁴⁸ Id.

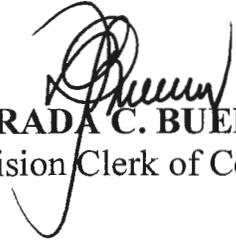
⁴⁹ Id. at 6.

considering that the courts *a quo* did not err in dismissing petitioner's Complaint for lack of merit, the present Petition is denied.

WHEREFORE, the Petition is hereby **DENIED**. The March 20, 2017 Decision and the June 30, 2017 Resolution of the Court of Appeals (CA) in CA-G.R. CV No. 106268, are **AFFIRMED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *WTA*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

303-A
JAN 27 2023

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