



Republic of the Philippines

Supreme Court

Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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ELSIE N. BELMONTE,

Petitioner,

G.R. No. 240482

Present:

- versus -

LEONEN, J.,
Chairperson,
CAGUIOA,*
HERNANDO,
DELOS SANTOS, and
LOPEZ, J.; JJ.

ROLANDO MAGAS, SPOUSES
OSCAR TORIO AND PERLA
MAGAS-TORIO, and SPOUSES
AVELINO GALIT AND MILA
MAGAS-GALIT,

Respondents.

Promulgated:

May 5, 2021

Mrs. B. B. B.

X-----X

DECISION

DELOS SANTOS, J.:

Assailed in this Petition for Review on *Certiorari*¹ is the Decision² dated January 30, 2018 and the Resolution³ dated June 27, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 143400, dismissing the complaint filed by petitioner Elsie N. Belmonte (petitioner) for lack of cause of action against respondents Rolando Magas, spouses Oscar Torio and Perla Magas-Torio, and spouses Avelino Galit and Mila Magas-Galit (collectively referred to as respondents).

* Designated as additional member in lieu of Associate Justice Henri Jean Paul B. Inting per Raffle dated December 9, 2020.

¹ *Rollo*, pp. 12-23.

² *Id.* at 29-45; penned by Associate Justice Rafael Antonio M. Santos, with Associate Justices Apolinario D. Bruselas, Jr. and Socorro B. Inting, concurring.

³ *Id.* at 47-49.

The Facts

This controversy stemmed from a Complaint⁴ for Recovery of Possession and Ownership of Land with Damages and Application for a Writ of Preliminary Injunction filed by petitioner against respondents before the Municipal Circuit Trial Court (MCTC) of Aroroy-Baleno in Aroroy, Masbate.

Petitioner alleged that she is the declared owner of an unregistered real property (subject property), particularly described as:

A parcel of land situated at (sic) Brgy. Concepcion, Aroroy, Masbate, consisting of around three (3) hectares, Bounded on the North, by Lumangaya and Ortenero; on the South and East, by G. Magas; on the West, by Rodolfo Belmonte, covered by Tax Declaration No. 2802 for 2003, with an assessed value of [P]4,970.00.⁵

According to petitioner, the above-mentioned subject property was acquired through sale by her father, Rodolfo Belmonte (Rodolfo), from a certain Mariano Balag on December 13, 1965, as evidenced by a Deed of Absolute Sale⁶ duly acknowledged before a notary public. Petitioner's father died sometime in 1969. Then on November 6, 1987, petitioner's mother, Cresenciana Naag, executed a Deed of Quitclaim,⁷ wherein she renounced all her rights, interests, and participation over the subject property in favor of herein petitioner. Since then, petitioner has been in a continuous, open, and exclusive possession of the subject property in the concept of an owner in good faith.⁸

However, sometime in May 2006, respondents, allegedly through the use and employment of force, intimidation, and threat, drove away herein petitioner and her relatives from the subject property, thereby unlawfully depriving her of its use, possession, and enjoyment. Thus, she prayed that she be declared as the lawful owner and possessor of the subject land; that she be recognized to have a better right of possession thereof; and that respondents be ordered to vacate the subject property and peacefully surrender its possession to petitioner.⁹

In their Answer,¹⁰ respondents denied the material allegations in petitioner's complaint and countered that she has no cause of action against

⁴ Id. at 73-79.

⁵ Id. at 73.

⁶ Id. at 77-78.

⁷ Id. at 79.

⁸ Id. at 73-74.

⁹ Id. at 74-75.

¹⁰ Id. at 80-86.

them. They alleged that the property described in petitioner's complaint is different from their land. Respondents claimed that their property is owned by their mother, Maura Magas (Maura), and declared for taxation purposes under Tax Declaration No. 013-0017,¹¹ consisting of 4.2118 hectares and bounded as follows:

North : P. Raza
East : Creek
South : Creek
West : Elsie Belmonte¹²

Respondents further alleged that the above-mentioned property used to be part of a larger parcel of land containing an area of 7 hectares declared under Tax Declaration No. 2415 in the name of their father, Geronimo Magas (Geronimo). Sometime in 1987, a portion of their father's land was sold to Atlas Mining Corporation. Respondents also alleged that tacking the possession of their predecessors-in-interest, Geronimo and Maura, they have been in possession of the said property since the 1950s. They have continuously possessed the subject property by planting rice and other crops, until herein petitioner entered sometime in May 2006. Thus, they were merely exercising their right as owners when they asked herein petitioner to cease and desist from engaging in panning activity in their land.¹³

The Ruling of the MCTC

In a Decision¹⁴ dated November 6, 2014, the MCTC dismissed the complaint filed by petitioner for lack of cause of action. The dispositive portion of the Decision reads:

WHEREFORE, for lack of cause of action, Judgment is hereby rendered in favor of the [respondents] and against the [petitioner], as follows:

1. Dismissing the Complaint;
2. Declaring the [respondents] to be the lawful owners and possessors of the subject land; [and]
3. Ordering the [petitioner] to pay to the [respondents], the following sums:
 - a. Php 10,000.00 as and for attorney's fees; and
 - b. Php 10,000.00 as and for litigation costs.

¹¹ Id. at 85.

¹² Id. at 81.

¹³ Id. at 81-82.

¹⁴ Id. at 66-72; penned by Judge Igmedio Emilio F. Camposano.

SO ORDERED.¹⁵

The MCTC gave credence to the findings of the court-commissioned Geodetic Engineer Miguel E. Reyes (Engr. Reyes) that the area and boundaries of the land claimed by petitioner as consistently indicated in the documents adduced in evidence are substantially different from the subject property. Petitioner's documents all indicate an area of 3 hectares, which is in variance with the 4.155 hectares established during the verification survey. A discrepancy of at least 1.155 hectare is very significant and cannot be glossed over. Furthermore, the boundaries of the subject land are different from those consistently appearing on petitioner's documents. Thus, the MCTC concluded that petitioner's documents do not refer to the area in question.¹⁶

Aggrieved, petitioner filed an appeal before the Regional Trial Court (RTC) of Masbate City, Masbate, Branch 47.

The Ruling of the RTC

In a Decision¹⁷ dated August 13, 2015, the RTC reversed and set aside the MCTC ruling. The *fallo* reads:

WHEREFORE, the judgment appealed from is REVERSED and SET ASIDE and a new judgment is hereby rendered in [favor] of the [petitioner] and against [respondents], to wit:

- 1) Declaring the [petitioner] Elsie Belmonte as the lawful owner and possessor of the subject property;
- 2) Ordering the [respondents], their heirs, assigns, agents and all persons acting for and in their behalf, to vacate the subject property and to peacefully turn over its possession in [favor] of the [petitioner]; [and]
- 3) Ordering the [respondents] to pay the [petitioner] the following sums, to wit:
 - a. Php 60,000.00 as moral damages;
 - b. Php 30,000.00 as exemplary damages; and
 - c. Php 5,000.00 as litigation expenses.

SO ORDERED.¹⁸

¹⁵ Id. at 72.

¹⁶ Id. at 69.

¹⁷ Id. at 63-65; penned by Judge Maximino R. Ables.

¹⁸ Id. at 65.

In ruling so, the RTC held that the MCTC erred in dismissing the complaint, as the evidence of petitioner establish the fact that she and her predecessors-in-interest have been in possession of the subject property since time immemorial until it was wrested from her through force, intimidation, and threat sometime in May 2006.¹⁹ Additionally, the MCTC failed to appreciate the fact that Engr. Reyes, in his testimony in court, was also equally uncertain of the property claimed by respondents, as the technical boundary indicated in the northern portion is different.²⁰

Respondents moved for reconsideration, which was denied in an Order²¹ dated October 28, 2015. Thus, respondents seasonably filed their petition for review before the CA.

The Ruling of the CA

In a Decision²² dated January 30, 2018, the CA reversed the RTC Decision and reinstated the MCTC Decision. The dispositive portion of the assailed Decision reads:

WHEREFORE, the instant *Petition for Review* is hereby granted. The assailed *Decision* of the RTC, Branch 47, Masbate City in Civil Case No. 7050 is hereby REVERSED and the Decision of the MCTC is REINSTATED, but only insofar as it dismissed the respondent's complaint.

SO ORDERED.²³

In granting respondents' petition, the CA held that to successfully maintain an action to recover ownership and possession of a real property under Article 434 of the Civil Code, the person who claims a better right to it must prove two things, to wit: *first*, the identity of the land claimed by describing the location, area, and boundaries thereof; and *second*, their title thereto.²⁴ Herein petitioner failed to prove the first requisite, which involves a technical issue, the identity of the land claimed. As found by the CA, she failed to describe through a technical description the location, area, and boundaries thereof in relation to the property possessed by respondents.²⁵ The CA took note that the subject property was an unregistered land, but it was only described in the tax declaration by its boundaries, denominated by the names of the adjoining property owners or a natural boundary. In this case, the boundary names stated in petitioner's tax declaration are different

¹⁹ Id. at 64.

²⁰ Id. at 65.

²¹ Id. at 142.

²² Supra note 2.

²³ *Rollo*, p. 44.

²⁴ Id. at 35.

²⁵ Id. at 36.

from those of respondents. Thus, it can only mean that they refer to different properties. In addition, petitioner claims that her property has an area of 3 hectares while respondent's property has an area of 4.2118 hectares.²⁶ Since petitioner failed to prove her title and the identity of the subject property in the possession of respondents, there exists no ground upon which to turn over possession of the disputed land to petitioner.²⁷

Nonetheless, the CA deleted the award of attorney's fees and litigation costs, pursuant to the policy that no premium should be placed on the right to litigate.²⁸

In a Resolution²⁹ dated June 27, 2018, the CA denied petitioner's Motion for Reconsideration for lack of merit. Hence, this Petition for Review on *Certiorari*.

The Issue

The sole issue raised by herein petitioner is –

WHETHER THE [CA] GRAVELY ERRED IN EFFECTIVELY RULING THAT PETITIONER WAS NOT ABLE TO ESTABLISH HER TITLE TO THE SUBJECT PROPERTY.³⁰

Arguments of the Petitioner

Petitioner alleged that the CA erred in dismissing her petition on the ground that she failed to prove the first requisite of an action to recover property under Article 434 of the Civil Code. Petitioner argued that she has sufficiently complied with the two requisites in an action to recover real property. *First*, she had successfully fixed the identity of the land she is claiming. She invoked the testimony of Engr. Reyes who stated that the subject property being claimed by the contending parties is the same. *Second*, she has successfully proven her title to the subject property by the evidence she adduced in court. Thus, petitioner's evidence of ownership and possession over the subject property are more convincing than the tax declarations presented by herein respondents in the name of Maura.³¹

²⁶ Id. at 41.

²⁷ Id. at 43-44.

²⁸ Id. at 44.

²⁹ *Supra* note 3.

³⁰ *Rollo*, p. 18.

³¹ Id. at 18-20.

Arguments of the Respondents

In their Comment,³² respondents countered that the CA correctly ruled that petitioner failed to establish the identity of the land being claimed by her, considering that her documents do not refer to the surveyed area presently occupied by respondents. They argued that, as found by Engr. Reyes, their property is distinct and separate from that of petitioner. The surveyed property being occupied by respondents has an area of 4.155 hectares, while petitioner's property has an area of 3 hectares. Furthermore, the boundaries stated in their respective tax declarations are different from each other. Respondents raised that petitioner's documents refer to another property belonging to the heirs of Rodolfo, wherein petitioner herself is one of the heirs.³³

The Ruling of the Court

The instant petition has no merit.

I

Under Section 1, Rule 45 of the Rules of Court, a petition for review on *certiorari* shall only raise questions of law. This Court is not a trier of facts and do not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case. There are, however, recognized exceptions to this rule, namely:

- (1) when the findings are grounded entirely on speculation, surmises or conjectures;
- (2) when the interference made is manifestly mistaken, absurd or impossible;
- (3) when there is grave abuse of discretion;
- (4) when the judgment is based on misapprehension of facts;
- (5) **when the findings of facts are conflicting;**
- (6) when in making its findings the CA went beyond the issue of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
- (7) when the findings are contrary to the trial court;
- (8) when the findings are conclusions without citation of specific evidence on which they are based;
- (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent;
- (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and

³² Id. at 217-227.

³³ Id. at 221-224.

- (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.³⁴ (Emphasis ours)

The present petition falls within one of the exceptions, wherein the findings of facts of the MCTC, the RTC, and the CA are in conflict with one another. Hence, the Court must re-examine the evidence on record.

II

After a judicious study of the records of the case, the Court is constrained to agree with the findings of the MCTC, as affirmed by the CA.

In the case at bar, petitioner filed a complaint against herein respondents for the recovery of possession and ownership of an unregistered land. Based on the allegations of her complaint, there is doubt as to the identity of the land sought to be recovered, both in its area and its boundaries. Under Article 434³⁵ of the Civil Code, to successfully maintain an action to recover the ownership of a real property, the person who claims of having a better right to it must prove two things: *first*, the identity of the land claimed and *second*, their title to the same.³⁶

As to the first requisite, petitioner identified her land as one covered by Tax Declaration No. 2802, consisting of three hectares located in *Barangay* Concepcion, Aroroy, Masbate. On the other hand, herein respondents argued that the land in petitioner's complaint is different from their property, as their land consists of 4.2118 hectares and covered by Tax Declaration No. 013-0017. In addition to the glaring disparity in the area of their respective lands, the boundaries thereof are likewise different.

In petitioner's Tax Declaration No. 2802, the boundaries are as follows:

North	: U. Lumanggaya and Mr. Ortinero
South and East	: G. Magas
West	: Rodolfo Belmonte ³⁷

Meanwhile, respondents' property covered by Tax Declaration No. 013-0017 has the following boundaries:

³⁴ See *Spouses Decaleng v. Bishop of the Missionary District of the Philippine Islands of Protestant Episcopal Church in the U.S.A.*, 689 Phil. 422, 437-438 (2012).

³⁵ Art. 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.

³⁶ *Heirs of Bienvenido and Araceli Tanyag v. Gabriel*, 685 Phil. 517, 536 (2012).

³⁷ *Rollo*, p. 76.

North : P. Raza
East : Creek
South : Creek
West : Elsie Belmonte³⁸

Based on the foregoing, it is very clear that the parcels of land of petitioner and respondents do not have the same areas and boundaries. The only conclusion that can be inferred is that they refer to entirely different parcels of land.

To explain the said discrepancies, herein petitioner offered the Survey Report³⁹ of the court-commissioned geodetic engineer, Engr. Reyes, which reads:

SURVEY REPORT

The undersigned, geodetic engineer-commissioner in the above-entitled case, unto this Honorable Court most respectfully reports:

1. The property claimed by [petitioner], as per Complaint, is a parcel of land situated at Concepcion, Aroroy, Masbate, consisting of 3 hectares, bounded on the North- by [Lumanggaya] and [Ortinero]; South and East- by Geronimo Magas; and on the West- by Rodolfo Belmonte, declared under Tax Declaration No. 6201 in the name of Elsie Belmonte.
2. The property claimed by the [respondents], as per Answer, is a parcel of land containing an area of 4.2118 hectares, declared under Tax Declaration No. 013-0017 in the name of Maura Magas, bounded as follows: North- by P. Raza; South and East- by Creek; and West-by Elsie Belmonte, which was a portion of the land declared under Tax Declaration No. 2415 in the name of Geronimo Magas, situated at Concepcion, Aroroy, Masbate.
3. The survey of the property in question was executed on June 11, 2008 in the presence of the parties-litigants, a court representative and some adjoining owners. The parties-litigants indicated on the ground their claims and occupations to the undersigned during the survey.
4. Per result of the survey, as shown in the enclosed sketch plan which is a part of this Survey Report, the following were determined, to wit:
 - a. **That the land in question contains an area of 41,551 sq. meters;**

³⁸ Supra note 11.

³⁹ Rollo, p. 94-A.

- b. **That the land in question was occupied by the [respondents] during the survey.** There are young coconut trees planted in the area in question, and uncultivated Riceland allegedly introduced by the [respondents];
- c. That the land in question is inside the Timberland or Forest Zone established by the Bureau of Forestry; and
- d. That the topographic condition of the land is hilly. (Emphases supplied)

Unfortunately, the Court cannot give credence to the Survey Report and sketch plan prepared and submitted by Engr. Reyes. The basis of the said report was Tax Declaration No. 6201 and not Tax Declaration No. 2802, to which petitioner claims ownership. Perusing from the records of the case, Tax Declaration No. 6201 was not even offered in evidence by either party. Likewise, Engr. Reyes neither explained why he used Tax Declaration No. 6201 as the basis of his report, nor clarified its relation to petitioner's Tax Declaration No. 2802. Consequently, said Survey Report cannot be admitted as evidence.

Anent the second requisite, settled is the rule that "tax declarations, by themselves, are not conclusive evidence of ownership of real property. In the absence of actual, public, and adverse possession, the declaration of the land for tax purposes does not prove ownership."⁴⁰ As correctly observed by the MCTC:

x x x In the case at bar, the tax declaration in the name of [respondents'] mother, Maura Magas serve more than such purpose because the [respondents] are in actual physical possession of the property in question.

Moreover, as extensively discussed earlier, [petitioner] failed to prove the property indicated and described on her documentary evidence is the same property that is now occupied by the [respondents]. On the contrary, [respondents] were able to prove that the property they presently occupy is the same property indicated and described on Tax Declaration Nos. 013-0017, 2475 and 2836, all in the name of Maura Magas.⁴¹

Again, in civil cases, "the burden of proof rests upon the plaintiff, who is required to establish their case by a preponderance of evidence."⁴² In this case, petitioner failed to discharge such burden of proof.

⁴⁰ *Palali v. Awisan*, 626 Phil. 357, 373 (2010).

⁴¹ *Rollo*, p. 71.

⁴² *Heirs of Teresita Villanueva v. Heirs of Petronila Syquia Mendoza*, 810 Phil. 172, 182-183 (2017).

III


As to the award of attorney's fees and litigation costs granted by the MCTC and the RTC, the CA was correct in dismissing the same.

The general rule is that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 [of the Civil Code] demands factual, legal, and equitable justification. Even when the claimant is compelled to litigate with third persons, or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.⁴³

In this case, the lower courts awarded litigation costs and attorney's fees on the premise that the parties were forced to litigate in order to protect their respective rights. However, such award was incorrect absent any other compelling and factual bases. Thus, the CA was correct in deleting the same.

WHEREFORE, the Petition is **DENIED** for lack of merit. The Decision dated January 30, 2018 and the Resolution dated June 27, 2018 of the Court of Appeals in CA-G.R. SP No. 143400 are hereby **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.



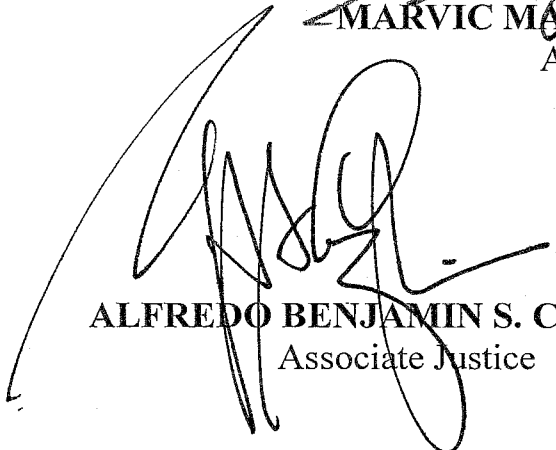
EDGARDO L. DELÓS SANTOS
Associate Justice

⁴³ *Philippine National Construction Corporation v. APAC Marketing Corporation*, 710 Phil. 389, 395 (2013), citing *ABS-CBN Broadcasting Corporation v. CA*, 361 Phil. 499 (1999).

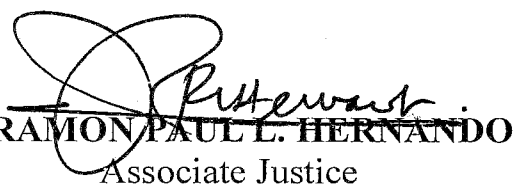
WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



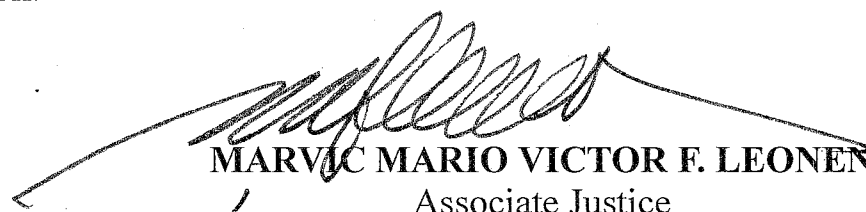
RAMON PAUL L. HERNANDO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

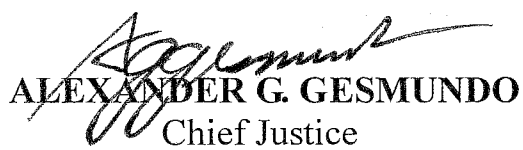
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice