

## THIRD DIVISION

[ G.R. No. 196074, October 04, 2017 ]

**FLORENCIA ARJONILLO, PETITIONER, VS. DEMETRIA PAGULAYAN, AS SUBSTITUTED BY HER HEIRS NAMELY: HERMANA VDA. DE CAMBRI, PORFIRIO T. PAGULAYAN, AND VICENTE, MAGNO, PEDRO, FLORENCIO, MELECIO, LERMA, ALL SURNAMED MATALANG, AND AUREA MATALANG-DELOS SANTOS, RESPONDENT.**

### DECISION

**MARTIRES, J.:**

This is a Petition for Review on Certiorari assailing the Decision<sup>[1]</sup> promulgated on 7 January 2011 and Resolution<sup>[2]</sup> dated 16 March 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 89206, which reversed and set aside the Decision<sup>[3]</sup> dated 31 August 2006 of the Regional Trial Court, Branch 2 of Tuguegarao City (RTC), in Civil Case No. 4778.

### THE FACTS

Avelardo Cue (*Cue*) died intestate on 8 December 1987 in Tuguegarao, Cagayan. Cue died single with no surviving descendants or ascendants but was survived by the following: 1) his brother, Felix Cue; 2) Alfonsa Sim and Rodolfo Sia, his niece and nephew by his deceased sister Marta Cue; 3) the herein petitioner Florencia Arjonillo (*Arjonillo*), his niece by his deceased sister Angelita Cue; and 4) Antonio, Isidra, Jacinto, Juanio, Nenita and Teodora, all surnamed Cue, his nieces and nephews by his deceased brother Francisco Cue. On 21 June 1989, they executed an extrajudicial settlement of the estate of Cue.

According to the heirs of Cue, the decedent acquired the following properties during his lifetime:

- a) Lot 999-B-3-B, Psd-57204, being a portion of Lot 999-B-3, Psd-52698, located at Poblacion, Tuguegarao, Cagayan, with an area of two hundred ten (210) square meters, more or less; bounded on the N. along line 1-2 by Calle Comercio; on the N and E, along lines 2-3-4 by Lot 999-B-3-A, of the subdivision plan, and on the S, along line 4-1 by Lot 999-A, Psd-46471 (Pedro Abraham and Josefina Abraham); reasonably assessed at P105,000.00;
- b) A 2-storey commercial building erected on lot 999-B-3-B, Psd-57204, made of strong materials; assessed at P73,320.00.<sup>[4]</sup>

Lot 999-B-3-B, however, is registered in the name of Demetria Pagulayan (*Pagulayan*) per Transfer Certificate of Title (TCT) No. T-35506, issued by the

Register of Deeds for the Province of Cagayan.

Some of the heirs of Cue, including Arjonillo, instituted Civil Case No. 4778 with the RTC for "Reivindicacion, with Partition and Application for Temporary Restraining Order and Preliminary Mandatory Injunction."<sup>[5]</sup>

They alleged that although the property was registered in the name of Pagulayan, it was Cue who purchased it using his own funds; that being his paramour, Pagulayan exercised undue influence on him in order to register the property exclusively in her own name; and that the registration of the property in the name of Pagulayan is void as it is against public policy.

On the other hand, Pagulayan alleged that she acquired the property from Spouses Chua Bun Gui<sup>[6]</sup> and Esmeralda Valdepanas Chua (*Spouses Chua*) for and in consideration of P20,000.00 which was acknowledged to have been received in full by the vendors as evidenced by the deed of absolute sale executed on 25 August 1976.<sup>[7]</sup> She prayed in her answer that the complaint be dismissed since the plaintiffs have no legal personality or cause of action against her.

### ***The Ruling of the RTC***

On 31 August 2006, the RTC rendered a decision declaring that Pagulayan is not the rightful owner of the subject property and, consequently, ordered the partition of the subject lot and building among the heirs of Cue. According to the RTC, "[Demetria] failed to substantiate her financial capability to acquire the properties subject of the suit, more so to erect and put up a building thereon jointly with Avelardo Cue."<sup>[8]</sup> Its findings were based, among others, on the testimony of Dr. Benito Valdepanas (Dr. Valdepanas), who is a nephew of Spouses Chua:

After making a thorough evaluation on the merits of the case, as it has been well substantiated by the testimonies of witnesses presented during the court proceedings, Demetria Pagulayan failed to prove her claim that she bought the lot in question and put up a building thereon. Noted as well in the records of the case is the Deposition of a witness who testified among others that he knows the lot described in TCT No. T-35506; that said witness has personal knowledge of the sale of the lot in question by his uncle to the late Avelardo Cue; and that Defendant Demetria Pagulayan is a mere salesgirl of the late Avelardo Cue.

The allegations of the Plaintiffs as above-discussed have been, in the mind of the Court, preponderantly proven as evidenced by the testimonies and documents presented during the trial of the case.<sup>[9]</sup>

### ***The Ruling of the CA***

Upon review, the CA, in its Decision dated 7 January 2011, reversed and set aside the RTC decision and dismissed the case. A motion for reconsideration was filed which was denied in the CA Resolution dated 16 March 2011.

In dismissing the case, the CA found that petitioners failed to discharge the burden of proving their allegation that the properties in dispute form part of the estate of

Cue. It was also found that the testimonies of their witnesses could be considered as mere hearsay because they did not have personal knowledge of the circumstances attending the execution of the deed of sale in favor of Pagulayan and the consequent issuance of TCT No. T-35506 in her name.<sup>[10]</sup>

## **ISSUES**

Arjonillo is now before the Court assailing the decision of the CA on the following grounds:

- I. THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT REVERSED OR SET ASIDE THE TRIAL COURT'S 31 AUGUST 2006 DECISION AND DISMISSING THE COMPLAINT IN CIVIL CASE NO. 4778 ABANDONING THE FACTUAL FINDINGS OF THE COURT A *QUO*.
- II. THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED ON THE INDEFEASIBILITY OF RESPONDENT DEMETRIA PAGULAYAN'S TITLE AND CATEGORICALLY DECLARED THAT THE OWNERSHIP OF THE DISPUTED PROPERTIES BELONG TO HER.
- III. THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ERROR WHEN IT CONSIDERED WITNESS DR. BENITO VALDEPANAS' TESTIMONY AS HEARSAY.<sup>[11]</sup>

## **THE COURT'S RULING**

The petition is without merit.

When a case is appealed to the CA, it is thrown wide open for review by that court which thereby has the authority to affirm, reverse, or modify the assailed decision of the lower court. The appellate court can render an entirely new decision in the exercise of its power of review in order to correct patent errors committed by the lower courts.<sup>[12]</sup>

Arjonillo and her co-heirs claim that the subject properties were owned by their predecessor, Cue. They sought to recover its full possession from Pagulayan by filing an *accion reivindicatoria* before the RTC. It is then incumbent upon them to convince the court by competent evidence that the subject properties form part of Cue's estate because in order to successfully maintain actions for recovery of ownership of a real property, the complainants must prove the identity of the land and their title thereto as provided under Article 434 of the Civil Code.<sup>[13]</sup> They have the burden of proof to establish the averments in the complaint by preponderance of evidence,<sup>[14]</sup> relying on the strength of their own evidence and not upon the weakness of their opponent's evidence.<sup>[15]</sup>

Rather than dispensing with their burden of proof as required under the law, Atjonillo and her co-heirs concentrated on attacking Pagulayan's claim of ownership over the subject properties on the ground of the latter's alleged lack of financial capability to purchase the land and erect a building thereon. It was consistently emphasized that Pagulayan was a mere salesgirl who only had an annual salary of