

THIRD DIVISION

[G.R. No. 191696, April 10, 2013]

**ROGELIO DANTIS, PETITIONER, VS. JULIO MAGHINANG, JR.,
RESPONDENT.**

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the January 25, 2010 Decision^[1] and the March 23, 2010 Resolution^[2] of the Court of Appeals (CA), in CA-G.R. CV No. 85258, reversing the March 2, 2005 Decision^[3] of the Regional Trial Court, Branch 18, Malolos, Bulacan (*RTC*), in an action for quieting of title and recovery of possession with damages.

The Facts

The case draws its origin from a complaint^[4] for quieting of title and recovery of possession with damages filed by petitioner Rogelio Dantis (*Rogelio*) against respondent Julio Maghinang, Jr. (*Julio, Jr.*) before the RTC, docketed as Civil Case No. 280-M-2002. Rogelio alleged that he was the registered owner of a parcel of land covered by Transfer Certificate of Title (*TCT*) No. T-125918, with an area of 5,657 square meters, located in Sta. Rita, San Miguel, Bulacan; that he acquired ownership of the property through a deed of extrajudicial partition of the estate of his deceased father, Emilio Dantis (*Emilio*), dated December 22, 1993; that he had been paying the realty taxes on the said property; that Julio, Jr. occupied and built a house on a portion of his property without any right at all; that demands were made upon Julio, Jr. that he vacate the premises but the same fell on deaf ears; and that the acts of Julio, Jr. had created a cloud of doubt over his title and right of possession of his property. He, thus, prayed that judgment be rendered declaring him to be the true and real owner of the parcel of land covered by TCT No. T-125918; ordering Julio, Jr. to deliver the possession of that portion of the land he was occupying; and directing Julio, Jr. to pay rentals from October 2000 and attorney's fees of P100,000.00.

He added that he was constrained to institute an ejectment suit against Julio, Jr. before the Municipal Trial Court of San Miguel, Bulacan (*MTC*), but the complaint was dismissed for lack of jurisdiction and lack of cause of action.

In his Answer,^[5] Julio, Jr. denied the material allegations of the complaint. By way of an affirmative defense, he claimed that he was the actual owner of the 352 square meters (subject lot) of the land covered by TCT No. T-125918 where he was living; that he had been in open and continuous possession of the property for almost thirty (30) years; the subject lot was once tenanted by his ancestral relatives until it was sold by Rogelio's father, Emilio, to his father, Julio Maghinang, Sr. (*Julio, Sr.*); that later, he succeeded to the ownership of the subject lot after his father died

on March 10, 1968; and that he was entitled to a separate registration of the subject lot on the basis of the documentary evidence of sale and his open and uninterrupted possession of the property.

As synthesized by the RTC from the respective testimonies of the principal witnesses, their diametrically opposed positions are as follows:

Plaintiff Rogelio Dantis testified that he inherited 5,657 square meters of land, identified as Lot 6-D-1 of subdivision plan Psd-031421-054315, located at Sta. Rita, San Miguel, Bulacan, through an Extrajudicial Partition of Estate of Emilio Dantis, executed in December 1993 which land was titled later on under his name, Rogelio Dantis, married to Victoria Payawal, as shown by copy of Transfer Certificate of Title No. T-125918, issued by the Register of Deeds of Bulacan on September 29, 1998, declared for taxation purposes as Tax Declaration with ARP No. C20-22-043-07-046. According to him, defendant and his predecessor-in-interest built the house located on said lot. When he first saw it, it was only a small hut but when he was about 60 years old, he told defendant not to build a bigger house thereon because he would need the land and defendant would have to vacate the land. Plaintiff, however, has not been in physical possession of the premises.

Defendant Julio Maghinang, Jr., presented by plaintiff as adverse witness, testified that he has no title over the property he is occupying. He has not paid realty taxes thereon. He has not paid any rental to anybody. He is occupying about 352 square meters of the lot. He presented an affidavit executed on September 3, 1953 by Ignacio Dantis, grandfather of Rogelio Dantis and the father of Emilio Dantis. The latter was, in turn, the father of Rogelio Dantis. The affidavit, according to affiant Ignacio Dantis, alleged that Emilio Dantis agreed to sell 352 square meters of the lot to Julio Maghinang on installment. Defendant was then 11 years old in 1952.

Defendant Julio Maghinang, Jr. likewise testified for the defendant's case as follows: He owns that house located at Sta. Rita, San Miguel, Bulacan, on a 352 square meter lot. He could not say that he is the owner because there is still question about the lot. He claimed that his father, Julio Maghinang (Sr.), bought the said lot from the parents of Rogelio Dantis. He admitted that the affidavit was not signed by the alleged vendor, Emilio Dantis, the father of Rogelio Dantis. The receipt he presented was admittedly a mere photocopy. He spent P50,000.00 as attorney's fees. Since 1953, he has not declared the property as his nor paid the taxes thereon because there is a problem.^[6]

On March 2, 2005, the RTC rendered its decision declaring Rogelio as the true owner of the entire 5,657-square meter lot located in Sta. Rita, San Miguel, Bulacan, as evidenced by his TCT over the same. The RTC did not lend any probative value on the documentary evidence of sale adduced by Julio, Jr. consisting of: 1) an affidavit allegedly executed by Ignacio Dantis (*Ignacio*), Rogelio's grandfather, whereby said affiant attested, among others, to the sale of the subject lot made by his son,

Emilio, to Julio, Sr. (*Exhibit "3"*)^[7]; and 2) an undated handwritten receipt of initial downpayment in the amount of P100.00 supposedly issued by Emilio to Julio, Sr. in connection with the sale of the subject lot (*Exhibit "4"*).^[8] The RTC ruled that even if these documents were adjudged as competent evidence, still, they would only serve as proofs that the purchase price for the subject lot had not yet been completely paid and, hence, Rogelio was not duty-bound to deliver the property to Julio, Jr. The RTC found Julio, Jr. to be a mere possessor by tolerance. The dispositive portion of the RTC decision reads:

WHEREFORE, Judgment is hereby rendered as follows:

1. quieting the title and removing whatever cloud over the title on the parcel of land, with area of 5,647 sq. meters, more or less, located at Sta. Rita, San Miguel, Bulacan, covered by Transfer Certificate of Title No. T-125918 issued by the Register of Deeds of Bulacan in the name of "Rogelio Dantis, married to Victoria Payawal";
2. declaring that Rogelio Dantis, married to Victoria Payawal, is the true and lawful owner of the aforementioned real property; and
3. ordering defendant Julio Maghinang, Jr. and all persons claiming under him to peacefully vacate the said real property and surrender the possession thereof to plaintiff or latter's successors-in-interest.

No pronouncement as to costs in this instance.

SO ORDERED.^[9]

Julio, Jr. moved for a reconsideration of the March 2, 2005 Decision, but the motion was denied by the RTC in its May 3, 2005 Order.^[10] Feeling aggrieved, Julio, Jr. appealed the decision to the CA.

On January 25, 2010, the CA rendered the assailed decision in CA-G.R. CV NO. 85258, finding the appeal to be impressed with merit. It held that Exhibit "4" was an indubitable proof of the sale of the 352-square meter lot between Emilio and Julio, Sr. It also ruled that the partial payment of the purchase price, coupled with the delivery of the res, gave efficacy to the oral sale and brought it outside the operation of the statute of frauds. Finally, the court a quo declared that Julio, Jr. and his predecessors-in-interest had an equitable claim over the subject lot which imposed on Rogelio and his predecessors-in-interest a personal duty to convey what had been sold after full payment of the selling price. The decretal portion of the CA decision reads:

IN VIEW OF THE FOREGOING, the decision appealed from is reversed. The heirs of Julio Maghinang Jr. are declared the owners of the 352-square meter portion of the lot covered by TCT No. T-125968 where the residence of defendant Julio Maghinang is located, and the plaintiff is ordered to reconvey the aforesaid portion to the aforesaid heirs, subject to partition by agreement or action to determine the exact metes and

bounds and without prejudice to any legal remedy that the plaintiff may take with respect to the unpaid balance of the price.

SO ORDERED.^[11]

The motion for reconsideration^[12] filed by Rogelio was denied by the CA in its March 23, 2010 Resolution. Unfazed, he filed this petition for review on certiorari before this Court.

Issues:

The fundamental question for resolution is whether there is a perfected contract of sale between Emilio and Julio, Sr. The determination of this issue will settle the rightful ownership of the subject lot.

Rogelio submits that Exhibit "3" and Exhibit "4" are devoid of evidentiary value and, hence, deserve scant consideration. He stresses that Exhibit "4" is inadmissible in evidence being a mere photocopy, and the existence and due execution thereof had not been established. He argues that even if Exhibit "4" would be considered as competent and admissible evidence, still, it would not be an adequate proof of the existence of the alleged oral contract of sale because it failed to provide a description of the subject lot, including its metes and bounds, as well as its full price or consideration.^[13]

Rogelio argues that while reconveyance may be availed of by the owner of a real property wrongfully included in the certificate of title of another, the remedy is not obtainable herein since he is a transferee in good faith, having acquired the land covered by TCT No. T-125918, through a Deed of Extrajudicial Partition of Estate.^[14] He asserts that he could not be considered a trustee as he was not privy to Exhibit "4." In any event, he theorizes that the action for reconveyance on the ground of implied trust had already prescribed since more than 10 years had lapsed since the execution of Exhibit "4" in 1953. It is the petitioner's stance that Julio, Jr. did not acquire ownership over the subject lot by acquisitive prescription contending that prescription does not lie against a real property covered by a Torrens title. He opines that his certificate of title to the subject lot cannot be collaterally attacked because a Torrens title is indefeasible and must be respected unless challenged in a direct proceeding.^[15]

The Court's Ruling

In the case at bench, the CA and the RTC reached different conclusions on the question of whether or not there was an oral contract of sale. The RTC ruled that Rogelio Dantis was the sole and rightful owner of the parcel of land covered by TCT No. T-125918 and that no oral contract of sale was entered into between Emilio Dantis and Julio Maghinang, Sr. involving the 352-square meter portion of the said property. The CA was of the opposite view. The determination of whether there existed an oral contract of sale is essentially a question of fact.

In petitions for review under Rule 45, the Court, as a general rule, does not venture to re-examine the evidence presented by the contending parties during the trial of the case considering that it is not a trier of facts and the findings of fact of the CA

are conclusive and binding upon this Court. The rule, however, admits of several exceptions. One of which is when the findings of the CA are contrary to those of the trial court.^[16] Considering the incongruent factual conclusions of the CA and the RTC, this Court is constrained to reassess the factual circumstances of the case and reevaluate them in the interest of justice.

The petition is meritorious.

It is an age-old rule in civil cases that he who alleges a fact has the burden of proving it and a mere allegation is not evidence.^[17] After carefully sifting through the evidence on record, the Court finds that Rogelio was able to establish a prima facie case in his favor tending to show his exclusive ownership of the parcel of land under TCT No. T-125918 with an area of 5,657 square meters, which included the 352-square meter subject lot. From the records, it appears that TCT No. T-125918 is a derivative of TCT No. T-256228, which covered a bigger area of land measuring 30,000 square meters registered in the name of Emilio Dantis; that Emilio died intestate on November 13, 1952; that Emilio's five heirs, including Rogelio, executed an extra-judicial partition of estate on December 22, 1993 and divided among themselves specific portions of the property covered by TCT No. T-256228, which were already set apart by metes and bounds; that the land known as Lot 6-D-1 of the subdivision plan Psd-031421-054315 with an area of 5,657 sq. m. went to Rogelio, the property now covered by TCT No. T-125918; and that the property was declared for realty tax purpose in the name of Rogelio for which a tax declaration was issued in his name; and that the same had not been transferred to anyone else since its issuance.

In light of Rogelio's outright denial of the oral sale together with his insistence of ownership over the subject lot, it behooved upon Julio, Jr. to contravene the former's claim and convince the court that he had a valid defense. The burden of evidence shifted to Julio, Jr. to prove that his father bought the subject lot from Emilio Dantis. In *Jison v. Court of Appeals*,^[18] the Court held:

Simply put, he who alleges the affirmative of the issue has the burden of proof, and upon the plaintiff in a civil case, the burden of proof never parts. However, in the course of trial in a civil case, once plaintiff makes out a prima facie case in his favor, the duty or the burden of evidence shifts to defendant to controvert plaintiff's prima facie case, otherwise, a verdict must be returned in favor of plaintiff. Moreover, in civil cases, the party having the burden of proof must produce a preponderance of evidence thereon, with plaintiff having to rely on the strength of his own evidence and not upon the weakness of the defendant's. The concept of "preponderance of evidence" refers to evidence which is of greater weight, or more convincing, than which is offered in opposition to it; at bottom, it means probability of truth.^[19]

Julio, Jr. failed to discharge this burden. His pieces of evidence, Exhibit "3" and Exhibit "4," cannot prevail over the array of documentary and testimonial evidence that were adduced by Rogelio. The totality of Julio, Jr.'s evidence leaves much to be desired.