

SECOND DIVISION

[G.R. No. 174719, May 05, 2010]

HEIRS OF MARIO PACRES, NAMELY: VALENTINA VDA. DE PACRES, JOSERINO, ELENA, LEOVIGILDO, LELISA, AND LOURDES ALL SURNAMED PACRES, AND VEÑARANDA VDA. DE ABABA, PETITIONERS, VS. HEIRS OF CECILIA YGOÑA, NAMELY BAUDILLO YGOÑA YAP, MARIA YAP DETUYA, JOSEFINA YAP, EGYPTIANA YAP BANZON, AND VICENTE YAP^[1] AND HILARIO RAMIREZ, RESPONDENTS.

D E C I S I O N

DEL CASTILLO, J.:

While contracts are generally obligatory in whatever form they may have been entered into, it remains imperative for a party that seeks the performance thereof to prove the existence and the terms of the contract by a preponderance of evidence. Bare assertions are not the quantum of proof contemplated by law.

This Petition for Review^[2] assails the Decision^[3] dated October 28, 2005 of the Court of Appeals (CA), as well as its Resolution^[4] dated August 31, 2006. The dispositive portion of the assailed Decision reads:

WHEREFORE, with the foregoing, the Decision of the Regional Trial Court, 7th Judicial Region, Branch 13, Cebu City dated March 15, 2000 in Civil Case No. 18819 for Specific Performance, Damages and Attorney's Fees is hereby SET ASIDE and a new one entered DISMISSING said case for failure to establish the causes of action with the required quantum of proof.

No pronouncement as to cost.

SO ORDERED.^[5]

Factual Antecedents

Lot No. 9 is a 1,007 square meter parcel of land located at Kinasang-an, Pardo, Cebu City and fronting the Cebu provincial highway. The lot originally belonged to Pastor Pacres (Pastor) who left it intestate to his heirs^[6] Margarita, Simplicia, Rodrigo, Francisco, Mario (petitioners' predecessor-in-interest) and Veñaranda (herein petitioner). Petitioners admitted that at the time of Pastor's death in 1962, his heirs were already occupying definite portions of Lot No. 9. The front portion along the provincial highway was occupied by the co-owned Pacres ancestral home,

[7] and beside it stood Rodrigo's hut (also fronting the provincial highway). Mario's house stood at the back of the ancestral house.[8] This is how the property stood in 1968, as confirmed by petitioner Valentina's testimony.

On the same year, the heirs leased[9] "the ground floor of the [ancestral home] together with a lot area of 300 square meters including the area occupied by the house" to respondent Hilario Ramirez (Ramirez), who immediately took possession thereof. Subsequently in 1974, four of the Pacres siblings[10] (namely, Rodrigo, Francisco, Simplicia and Margarita) sold their shares in the ancestral home and the lot on which it stood to Ramirez. The deeds of sale described the subjects thereof as "part and portion of the 300 square meters *actually in possession and enjoyment* by vendee and her spouse, Hilario Ramirez, by virtue of a contract of lease in their favor." [11] The Deed of Sale of Right in a House executed by Rodrigo and Francisco was more detailed, to wit:

x x x do hereby sell, cede, transfer and convey, forever and in absolute manner, our shares interests and participation in a house of mixed materials under roof of nipa which is constructed inside Lot No. 5506[12] of the Cadastral Survey of Cebu, the lot on which the house is constructed has already been sold to and bought by the herein vendee from our brothers and sisters; that this sale pertains only to our rights and interests and participation in the house which we inherited from our late father Pastor Pacres.[13]

With the sale, respondent Ramirez's possession as lessee turned into a co-ownership with petitioners Mario and Veñaranda, who did not sell their shares in the house and lot.

On various dates in 1971, Rodrigo,[14] Francisco,[15] and Simplicia[16] sold their remaining shares in Lot No. 9 to respondent Cecilia Ygoña (Ygoña). In 1983, Margarita[17] also sold her share to Ygoña. The total area sold to Ygoña was 493 square meters.

In 1984, Ygoña filed a petition to survey and segregate[18] the portions she bought from Lot No. 9. Mario objected on the ground that he wanted to exercise his right as co-owner to redeem his siblings' shares. Vendee Rodrigo also opposed on the ground that he wanted to annul the sale for failure of consideration. On the other hand, Margarita and the widow of Francisco both manifested their assent to Ygoña's petition. By virtue of such manifestation, the court issued a writ of possession[19] respecting Margarita's and Francisco's shares in favor of Ygoña. It is by authority of this writ that Ygoña built her house on a portion of Lot No. 9. Considering, however, the objections of the two other Pacres siblings, the trial court subsequently dismissed the petition so that the two issues could be threshed out in the proper proceeding. Mario filed the intended action while Rodrigo no longer pursued his objection.

The complaint for legal redemption,[20] filed by Mario and Veñaranda, was dismissed on the ground of improper exercise of the right. The decision was affirmed by the

appellate court^[21] and attained finality in the Supreme Court^[22] on December 28, 1992. The CA held that the complaint was filed beyond the 30-day period provided in Article 1623 of the New Civil Code and failed to comply with the requirement of consignment. It was further held that Ygoña built her house on Lot No. 9 in good faith and it would be unjust to require her to remove her house thereon.

On June 18, 1993, the Republic of the Philippines, through the Department of Public Works and Highways (DPWH), expropriated the front portion of Lot No. 9 for the expansion of the Cebu south road. The petition for expropriation was filed in Branch 9 of the Regional Trial Court of Cebu City and docketed as Civil Case No. CEB-14150.^[23] As occupant of the expropriated portion, Ygoña moved to withdraw her corresponding share in the expropriation payment. Petitioners opposed the said motion.^[24] The parties did not supply the Court with the pleadings in the expropriation case; hence, we are unaware of the parties involved and the issues presented therein. However, from all indications, the said motion of Ygoña remains unresolved.

On July 20, 1993, the Pacres siblings (Margarita and Francisco were already deceased at that time and were only represented by their heirs) executed a Confirmation of Oral Partition/Settlement of Estate^[25] of Pastor Pacres. The relevant statements in the affidavit read:

1. That our father the late Pastor Pacres died intestate at Kinasang-an, Pardo, Cebu City on January 2, 1962;
2. That he left some real properties, one of which is a parcel of land (Lot No. 9, PCS 07-01-000006, Cebu Cad., located at Kinasang-an, Pardo, Cebu City);
3. That after the death of Pastor Pacres, the above-named children declared themselves extra-judicially as heirs of Pastor Pacres and they likewise adjudicated unto themselves the above described lot and forthwith MADE AN ORAL PARTITION;
4. *That in that ORAL PARTITION, the shares or portion to be allotted to Mario Pacres and Veñaranda Pacres Vda. de Ababa shall be fronting the national highway, while the shares of the rest shall be located at the rear;*
5. That recently, the said heirs had the said lot surveyed to determine specifically their respective locations in accordance with the oral partition made after the death of Pastor Pacres;
6. That a sketch of the subdivision plan is hereto attached, duly labeled, indicating the respective locations of the shares of each and every heir.

On September 30, 1994, Mario, petitioners' predecessor-in-interest, filed an ejectment suit against Ramirez' successor-in-interest Vicentuan. Mario claimed sole ownership of the lot occupied by Ramirez/Vicentuan by virtue of the oral partition.

He argued that Ramirez/Vicentuan should pay rentals to him for occupying the front lot and should transfer to the rear of Lot No. 9 where the lots of Ramirez's vendors are located.

The court dismissed Mario's assertion that his siblings sold the rear lots to Ramirez. It held that the deeds of sale in favor of Ramirez clearly described the object of the sale as the ancestral house and lot.^[26] Thus, Ramirez has a right to continue occupying the property he bought. The court further held that since Mario did not sell his *pro-indiviso* shares in the house and lot, at the very least, the parties are co-owners thereof. Co-owners are entitled to occupy the co-owned property.^[27]

The Complaint for Specific Performance

On June 3, 1996, Veñaranda and the heirs of Mario filed the instant complaint for specific performance^[28] against Ygoña and Ramirez. Contrary to Mario's allegations of co-ownership over Lot No. 9 in the legal redemption case, Mario's heirs insist in the action for specific performance that the heirs agreed on a partition prior to the sale. They seek compliance with such agreement from their siblings' vendees, Ygoña and Ramirez, on the basis that the two were privy to these agreements, hence bound to comply therewith. In compliance with such partition, Ygoña and Ramirez should desist from claiming any portion of the expropriation payment for the front lots.

Their other cause of action is directed solely at Ygoña, whom they insist agreed to additional, albeit unwritten, obligations other than the payment of the purchase price of the shares in Lot No. 9. Veñaranda and Mario's heirs insist that Ygoña contracted with her vendors to assume all obligations regarding the payment of past and present estate taxes, survey Lot No. 9 in accordance with the oral partition, and obtain separate titles for each portion. While these obligations were not written into the deeds of sale, petitioners insist it is not subject to the Statute of Frauds since these obligations were allegedly partly complied with by Ygoña. They cite as evidence of Ygoña's compliance the survey of her purchased lots and payment of realty taxes.

Respondents denied privity with the heirs' oral partition. They further maintained that no such partition took place and that the portions sold to and occupied by them were located in front of Lot No. 9; hence they are the ones entitled to the expropriation payment.^[29] They sought damages from the unfounded suit leveled against them. To discredit petitioners' assertion of an oral partition, respondents presented Exhibit No. 1, which petitioner Valentina herself executed during her testimony. Exhibit No. 1 demonstrated Valentina's recollection of the actual occupation of the Pacres siblings, their heirs and vendees. The sketch undermined petitioners' allegation that the heirs partitioned the property *and* immediately *took possession* of their allotted lots/shares. Ygoña also denied ever agreeing to the additional obligations being imputed against her.

Ruling of the Regional Trial Court

The trial court ruled in favor of respondents.^[30] It held that petitioners failed to prove partition of the lot in accordance with petitioners' version. Instead, the trial court held that the parties' actual occupation of their portions in Lot No. 9, as

evidenced by petitioner Valentina's sketch, is the real agreement to which the parties are bound. Apparently unsatisfied with the parties' state of affairs, the trial court further ordered that a survey of the lot according to the parties' actual occupation thereof be conducted.

Petitioners' motion for reconsideration was denied.^[31] Unsatisfied with the adverse decision, petitioners appealed to the CA questioning the factual findings of the trial court and its reliance on Exhibit 1. They maintained that Valentina was incompetent and barely literate; hence, her sketch should not be given weight.

Ruling of the Court of Appeals

The appellate court sustained the ruling of the trial court insofar as it dismissed petitioners' complaint for lack of evidence. It held that the oral partition was not valid because the heirs did not ratify it by taking possession of their shares in accordance with their oral agreement. Moreover, the CA ruled that Ygoña's sole undertaking under the deeds of sale was the payment of the purchase price. Since petitioners did not question the validity of the deeds and did not assail its terms as failing to express the true intent of the parties, the written document stands superior over the allegations of an oral agreement.

It, however, reversed the trial court on the latter's order to survey the lot in accordance with Valentina's sketch. The appellate court explained that while it was conclusive that Ygoña and Ramirez bought portions of the property from some of the Pacres siblings, the issue of the actual area and location of the portions sold to them remains unresolved. The CA narrated all the unresolved matters that prevented a finding that definitively settles the partition of Lot No. 9. The CA emphasized that the question regarding ownership of the front lots and the expropriation payment should be threshed out in the proper proceeding.

The CA likewise found no basis for the award of damages to either party.

Petitioners' Motion for Reconsideration^[32] was denied,^[33] hence this petition.

Issues

Petitioners formulated the following issues:^[34]

1. Whether or not this complaint for specific performance, damages and attorney's fee [sic] with a prayer for the issuance of a restraining order and later on issuance of a writ of permanent injunction is tenable.
2. Whether or not the area purchased and owned by respondents in Lot No. 9 is located along or fronting the national highway.
3. Whether or not the lower court committed grave abuse of discretion by rendering a decision not in accord with laws and applicable decisions of the Supreme Court, resulting to the unrest of this case.