

SECOND DIVISION

[G.R. No. 176858, September 15, 2010]

HEIRS OF JUANITA PADILLA, REPRESENTED BY CLAUDIO PADILLA, PETITIONERS, VS. DOMINADOR MAGDUA, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review on certiorari^[1] assailing the Orders dated 8 September 2006^[2] and 13 February 2007^[3] of the Regional Trial Court (RTC) of Tacloban City, Branch 34, in Civil Case No. 2001-10-161.

The Facts

Juanita Padilla (Juanita), the mother of petitioners, owned a piece of land located in San Roque, Tanauan, Leyte. After Juanita's death on 23 March 1989, petitioners, as legal heirs of Juanita, sought to have the land partitioned. Petitioners sent word to their eldest brother Ricardo Bahia (Ricardo) regarding their plans for the partition of the land. In a letter dated 5 June 1998 written by Ricardo addressed to them, petitioners were surprised to find out that Ricardo had declared the land for himself, prejudicing their rights as co-heirs. It was then discovered that Juanita had allegedly executed a notarized Affidavit of Transfer of Real Property^[4] (Affidavit) in favor of Ricardo on 4 June 1966 making him the sole owner of the land. The records do not show that the land was registered under the Torrens system.

On 26 October 2001, petitioners filed an action with the RTC of Tacloban City, Branch 34, for recovery of ownership, possession, partition and damages. Petitioners sought to declare void the sale of the land by Ricardo's daughters, Josephine Bahia and Virginia Bahia-Abas, to respondent Dominador Magdua (Dominador). The sale was made during the lifetime of Ricardo.

Petitioners alleged that Ricardo, through misrepresentation, had the land transferred in his name without the consent and knowledge of his co-heirs. Petitioners also stated that prior to 1966, Ricardo had a house constructed on the land. However, when Ricardo and his wife Zosima separated, Ricardo left for Inasuyan, Kawayan, Biliran and the house was leased to third parties.

Petitioners further alleged that the signature of Juanita in the Affidavit is highly questionable because on 15 May 1978 Juanita executed a written instrument stating that she would be leaving behind to her children the land which she had inherited from her parents.

Dominador filed a motion to dismiss on the ground of lack of jurisdiction since the assessed value of the land was within the jurisdiction of the Municipal Trial Court of Tanauan, Leyte.

In an Order dated 20 February 2006,^[5] the RTC dismissed the case for lack of jurisdiction. The RTC explained that the assessed value of the land in the amount of P590.00 was less than the amount cognizable by the RTC to acquire jurisdiction over the case.^[6]

Petitioners filed a motion for reconsideration. Petitioners argued that the action was not merely for recovery of ownership and possession, partition and damages but also for annulment of deed of sale. Since actions to annul contracts are actions beyond pecuniary estimation, the case was well within the jurisdiction of the RTC.

Dominador filed another motion to dismiss on the ground of prescription.

In an Order dated 8 September 2006, the RTC reconsidered its previous stand and took cognizance of the case. Nonetheless, the RTC denied the motion for reconsideration and dismissed the case on the ground of prescription pursuant to Section 1, Rule 9 of the Rules of Court. The RTC ruled that the case was filed only in 2001 or more than 30 years since the Affidavit was executed in 1966. The RTC explained that while the right of an heir to his inheritance is imprescriptible, yet when one of the co-heirs appropriates the property as his own to the exclusion of all other heirs, then prescription can set in. The RTC added that since prescription had set in to question the transfer of the land under the Affidavit, it would seem logical that no action could also be taken against the deed of sale executed by Ricardo's daughters in favor of Dominador. The dispositive portion of the order states:

WHEREFORE, premises considered, the order of the Court is reconsidered in so far as the pronouncement of the Court that it has no jurisdiction over the nature of the action. The dismissal of the action, however, is maintained not by reason of lack of jurisdiction but by reason of prescription.

SO ORDERED.^[7]

Petitioners filed another motion for reconsideration which the RTC denied in an Order dated 13 February 2007 since petitioners raised no new issue.

Hence, this petition.

The Issue

The main issue is whether the present action is already barred by prescription.

The Court's Ruling

Petitioners submit that the RTC erred in dismissing the complaint on the ground of prescription. Petitioners insist that the Affidavit executed in 1966 does not conform with the requirement of sufficient repudiation of co-ownership by Ricardo against his

co-heirs in accordance with Article 494 of the Civil Code. Petitioners assert that the Affidavit became part of public records only because it was kept by the Provincial Assessor's office for real property tax declaration purposes. However, such cannot be contemplated by law as a record or registration affecting real properties. Petitioners insist that the Affidavit is not an act of appropriation sufficient to be deemed as constructive notice to an adverse claim of ownership absent a clear showing that petitioners, as co-heirs, were notified or had knowledge of the Affidavit issued by their mother in Ricardo's favor.

Respondent Dominador, on the other hand, maintains that Juanita, during her lifetime, never renounced her signature on the Affidavit or interposed objections to Ricardo's possession of the land, which was open, absolute and in the concept of an owner. Dominador contends that the alleged written instrument dated 15 May 1978 executed by Juanita years before she died was only made known lately and conveys the possibility of being fabricated. Dominador adds that the alleged 'highly questionable signature' of Juanita on the Affidavit was only made an issue after 35 years from the date of the transfer in 1966 until the filing of the case in 2001. As a buyer in good faith, Dominador invokes the defense of acquisitive prescription against petitioners.

At the outset, only questions of law may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court. The factual findings of the lower courts are final and conclusive and may not be reviewed on appeal except under any of the following circumstances: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.^[8]

We find that the conclusion of the RTC in dismissing the case on the ground of prescription based solely on the Affidavit executed by Juanita in favor of Ricardo, the alleged seller of the property from whom Dominador asserts his ownership, is speculative. Thus, a review of the case is necessary.

Here, the RTC granted the motion to dismiss filed by Dominador based on Section 1, Rule 9 of the Rules of Court which states:

Section 1. *Defenses and objections not pleaded.* - Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or **that the action is barred** by a prior judgment or **by statute of limitations**, the court shall dismiss the case. (Emphasis supplied)

The RTC explained that prescription had already set in since the Affidavit was executed on 31 May 1966 and petitioners filed the present case only on 26 October 2001, a lapse of more than 30 years. No action could be taken against the deed of sale made in favor of Dominador without assailing the Affidavit, and the action to question the Affidavit had already prescribed.

After a perusal of the records, we find that the RTC incorrectly relied on the Affidavit alone in order to dismiss the case without considering petitioners' evidence. The facts show that the land was sold to Dominador by Ricardo's daughters, namely Josephine Bahia and Virginia Bahia-Abas, during the lifetime of Ricardo. However, the alleged deed of sale was not presented as evidence and neither was it shown that Ricardo's daughters had any authority from Ricardo to dispose of the land. No cogent evidence was ever presented that Ricardo gave his consent to, acquiesced in, or ratified the sale made by his daughters to Dominador. In its 8 September 2006 Order, the RTC hastily concluded that Ricardo's daughters had legal personality to sell the property:

On the allegation of the plaintiffs (petitioners) that Josephine Bahia and Virginia Bahia-Abas had no legal personality or right to [sell] the subject property is of no moment in this case. It should be Ricardo Bahia who has a cause of action against [his] daughters and not the herein plaintiffs. After all, Ricardo Bahia might have already consented to or ratified the alleged deed of sale.^[9]

Also, aside from the Affidavit, Dominador did not present any proof to show that Ricardo's possession of the land had been open, continuous and exclusive for more than 30 years in order to establish extraordinary acquisitive prescription.^[10] Dominador merely assumed that Ricardo had been in possession of the land for 30 years based on the Affidavit submitted to the RTC. The petitioners, on the other hand, in their pleading filed with the RTC for recovery of ownership, possession, partition and damages, alleged that Ricardo left the land after he separated from his wife sometime after 1966 and moved to another place. The records do not mention, however, whether Ricardo had any intention to go back to the land or whether Ricardo's family ever lived there.

Further, Dominador failed to show that Ricardo had the land declared in his name for taxation purposes from 1966 after the Affidavit was executed until 2001 when the case was filed. Although a tax declaration does not prove ownership, it is evidence of claim to possession of the land.

Moreover, Ricardo and petitioners are co-heirs or co-owners of the land. Co-heirs or co-owners cannot acquire by acquisitive prescription the share of the other co-heirs or co-owners absent a clear repudiation of the co-ownership, as expressed in Article 494 of the Civil Code which states:

Art. 494. x x x No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs as long as he expressly or impliedly recognizes the co-ownership.