

THIRD DIVISION

[G.R. No. 185477, December 04, 2009]

**HERMINIO M. GUTIERREZ AND ELISA A. GUTIERREZ-MAYUGA,
PETITIONERS, VS. FLORA MENDOZA-PLAZA AND PONCIANO
HERNANDEZ, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assails the Amended Decision^[2] dated 26 September 2008 of the Court of Appeals in CA-G.R. CV No. 89555, which recalled and set aside its earlier Decision^[3] dated 2 June 2008. The prior Decision of the appellate court reversed the Decision^[4] dated 15 June 2007 of the Regional Trial Court (RTC) of Tanauan City, Branch 83, in Civil Case No. 06-04-2929, which pronounced that herein respondents Flora Mendoza and Ponciano Hernandez (respondents) were the lawful owners of the property subject of this case.

As culled from the records, the antecedents of the case are as follows:

Ignacio Mendoza is the common ascendant of the parties herein. Ignacio was first married to Juana Jaurigue,^[5] to whom Dominador and Victoria were born. Petitioner Herminio M. Gutierrez (Herminio)^[6] is the son of Victoria, and petitioner Elisa A. Gutierrez-Mayuga (Elisa)^[7] is the daughter of Herminio.

After the death of Juana in 1913, Ignacio married Ignacia Jaurigue, the younger sister of Juana. Out of this second marriage, five children were born, namely: Crisostomo, Flora, Felisa, Mercedes and Constanca. As aforesaid, respondent Flora Mendoza-Plaza (Flora) is the daughter of Ignacia, while respondent Ponciano Hernandez (Ponciano) is the son of Felisa.

The parcel of land subject of this case (subject property) is an unregistered land located in Barangay Sta. Clara, Sto. Tomas, Batangas, containing an area of 446 square meters, more or less.

On 25 March 1916, Ignacio acquired the subject property by way of purchase from Luis Custodio for P200.00, which sale was contained in a notarized document entitled *Escritura Publica*.^[8]

Thereafter, on 8 March 1940, Ignacio executed a **deed of donation *inter vivos***,^[9] whereby the subject property was donated to the children whom he begot with Ignacia, his second wife. Ignacia accepted the donation in the same instrument on behalf of her children. Dominador and Victoria were also signatories to the deed of donation *inter vivos* as instrumental witnesses. The deed was likewise duly

notarized, but the same was not recorded in the Registry of Deeds.

Subsequently, on 27 April 2006, respondents filed a Complaint for *Accion Reivindicatoria, Publiciana* and Quieting of Title against petitioners in the RTC of Tanauan City, which was docketed as Civil Case No. 06-04-2929. Respondents alleged that after the execution of the deed of donation *inter vivos*, the subject property was assigned to Flora and her sister Felisa, who then possessed and occupied the same as owners. Ponciano took over and exercised the rights of his mother Felisa after the latter died in 1988. On or about late January or early February of 2006, petitioners took possession of the southern portion of the subject property and constructed a house of strong materials therein, despite the vigorous objection and opposition of the respondents. As the parties were close relatives, respondents exerted efforts to compromise and amicably settle the case, but petitioners refused. Respondents prayed, *inter alia*, that they be declared the true and rightful owners of the subject land; petitioners be directed to demolish and remove the house of strong materials, which they built in bad faith; and petitioners be ordered to pay attorney's fees, expenses of litigation, damages and judicial costs.

Petitioners accordingly denied the above material averments in their Answer,^[10] asserting that Ignacio and his first wife, Juana, had been in possession of the subject property as early as 1900. After the death of Juana, Dominador, Victoria and Ignacio took over possession of the subject property. When Dominador and Victoria died in 1940 and 1943, respectively, their heirs, including petitioners, occupied and possessed the subject property openly, peacefully and publicly. Petitioners likewise disputed the genuineness and authenticity of the deed of donation *inter vivos*, considering that for more than 65 years the said document was not registered with the office of the Register of Deeds to cause its transfer to respondents. Respondents' presence on and occupancy of a portion of the subject property were allegedly a mere tolerance on the part of petitioners. Thus, the title and rights of petitioners over the subject property were absolute and legal by virtue of succession.

On 15 June 2007, the RTC rendered its Decision in favor of respondents, the dispositive portion of which provides:

WHEREFORE, judgment is rendered in favor of the [respondents] and against [petitioners]:

1. Pronouncing and confirming that the [respondents] are the lawful, true and rightful owners of the land described in paragraph 4 of the complaint [subject property], and hereby remove the cloud and quiet their title thereto;
2. Ordering the [petitioners] to refrain from disturbing in whatever manner the ownership and possession of the [respondents] over the land subject matter of this litigation;
3. Pronouncing [petitioners] to have lost the house of strong and concrete materials which they built in bad faith on the land of the [respondents] without right to indemnity, and ordering the [petitioners] to demolish and remove the said house from the [respondents'] land

within thirty (30) days from the date this judgment becomes final at their own expense and thereafter vacate and restore to the [respondents] possession of the portion of the land which the [petitioners] have occupied.

4. Ordering the [petitioners] to pay [respondent] Ponciano Hernandez the sum of P50,000.00 for moral damages, and another sum of P20,000.00 to both [respondents] for attorney's fees.

5. Plus the costs assessed against the [petitioners].^[11]

Principally, the RTC relied on the deed of donation *inter vivos* in awarding the subject property to respondents. The same was properly identified and described in the testimony of Mercedes Mendoza, one of the daughters of Ignacio by his second marriage. The deed was also a notarized document, which was executed with all the formal requirements of the law. Thus, the recitals contained therein were presumed to be true and authentic, which presumption the petitioners failed to overcome with clear, convincing, overwhelming and more than merely preponderant evidence. The RTC also ruled that the deed of donation *inter vivos* was an ancient document,^[12] having been executed on 8 March 1940 and being clearly more than thirty (30) years old. The deed was in the proper custody of respondent Ponciano who acquired the same from his mother Felisa, before the latter's death. On its face, the deed was free from any alterations, interlineations, or erasures of a material character, or any circumstance that may generate suspicion of its authenticity. The certificate of the Clerk of Court of Batangas City offered by petitioners, stating that the office had no available records/documents notarized by the notary public who signed the deed of donation *inter vivos*, did not rule out the authenticity of the said deed. It did not follow that the deed was also inexistent in another government depositories of ancient documents.

Moreover, the RTC declared petitioners to be in bad faith in building a house of strong materials on a portion of the subject property. The respondents strongly opposed the construction from the start, given that the occupation and possession by the petitioners were merely tolerated.

Petitioners filed an appeal with the Court of Appeals, which was docketed as CA-G.R. CV No. 89555.

On 2 June 2008, the Court of Appeals promulgated a Decision, reversing the ruling of the RTC, ratiocinating in this wise:

It is undisputed that the subject property is an unregistered land over which both parties, who are descendants of Ignacio Mendoza, claim ownership. [Respondents] claim ownership by virtue of a donation *inter vivos*, allegedly executed in 1940 by Ignacio in favor of Ignacia, and possession thereof. On the other hand, [petitioners] claim that they are owners of a portion of the property by acquisitive possession. Both parties presented receipts proving that they have been paying realty taxes on the property. Thus, the controversy boils down to the examination of the evidence presented.

The RTC herein relied heavily on the donation *inter vivos*, Exh. "B" dated March 8, 1940, allegedly executed by Ignacio Mendoza in favor of [his children with his second wife Ignacia], which was acknowledged by Ignacia in the same instrument x x x. Reliance on Exh. "B", however, is flawed. It must be noted that the property subject of controversy is an unregistered land, and the parties therein are [the children of Ignacio with his second wife] and Ignacio Mendoza. [Petitioners] are strangers to the instrument. **Thus, while Exh. "B" is valid between Ignacio Mendoza and [respondents], the same cannot affect third parties such as [petitioners], unless the same is registered** in the manner provided under Section 194 of Act No. 2711, effective March 10, 1917, as amended by Act No. 2837 and later by Act No. 3344, which states:

"Sec. 194. Recording of instruments or deeds relating to real estate not registered under Act Numbered Four Hundred and Ninety-Six or under the Spanish Mortgage Law. - No instrument or deed establishing, transmitting, acknowledging, modifying or extinguishing rights with respect to real estate not registered under the provisions of Act Numbered Four Hundred and Ninety-Six entitled "The Land Registration Act," and its amendments, or under the Spanish Mortgage Law, shall be valid, except as between the parties thereto, until such instrument or deed has been registered x x x in the office of the register of deeds for the province or city where the real estate lies.

x x x x

The above provision of the law has been reiterated in Section 113 of Presidential Decree No. 1529, as amended, which states:

"Sec. 113. Recording of instruments relating to unregistered lands. - No deed, conveyance, mortgage, lease or other voluntary instrument affecting land not registered under the Torrens system shall be valid, except as between the parties thereto, unless such instrument shall have been recorded in the manner herein prescribed in the office of the Register of Deeds for the province or city where the land lies.

x x x x

A careful review of the records shows that Exh. "B", purporting to be a deed of donation, was not registered at all. Apropos, the [petitioners], being third parties thereto, are not bound by the transmittal of rights from Ignacio Mendoza to the [respondents] x x x.

Setting aside Exh. "B", the pieces of evidence left are the tax declarations

presented during the trial. However, it is an established jurisprudence that tax declarations and tax receipts are not conclusive evidence of ownership x x x. "In the absence of actual public and adverse possession, the declaration of the land for tax purposes does not prove ownership" x x x. Further examination of the tax declarations x x x show that both parties have been paying realty taxes thereon in the name of Ignacio Mendoza. Likewise, while the parties rely on the tax receipts and tax declarations coupled with the assertions of adverse possession, these do not indicate that they own the same because the property was not declared in their names. x x x.^[13] (Emphases ours.)

The Court of Appeals, thus, decreed:

IN VIEW OF THE FOREGOING, the instant appeal is **GRANTED**. The Decision of the Regional Trial Court (RTC) dated June 15, 2007, promulgated by Branch 83, City of Tanuan, Batangas, in Civil Case No. 06-04-2929, is hereby **REVERSED and SET ASIDE**, and a new one entered **DISMISSING** the complaint in Civil Case No. 06-04-2929. No cost.^[14]

Respondents forthwith filed a Motion for Reconsideration^[15] on the above Decision, contending, *inter alia*, that where a party has knowledge of a prior existing interest which was unregistered at the time he acquired a right to the same land, his knowledge of that prior unregistered interest has the effect of registration as to him. The knowledge of Victoria, an instrumental witness to the deed of donation *inter vivos*, of the existing prior interest of the heirs of Ignacio by his second marriage is deemed in law to be knowledge of the petitioners.

On 26 September 2008, the Court of Appeals promulgated an Amended Decision,^[16] setting aside its earlier Decision, holding that:

After a careful analysis of the circumstances of this case, We find merit in the arguments of the plaintiff-appellees.

x x x x

To clarify, as a general rule, "no deed, conveyance, mortgage, lease or other voluntary instrument affecting land not registered under the Torrens system shall be valid, except as between the parties thereto, unless such instrument shall have been recorded in the manner herein prescribed in the office of the Register of Deeds for the province or city where the land lies" (Section 113, Presidential Decree No. 1529, as amended). This means that any instrument dealing with unregistered land shall not bind third persons, unless the instrument is registered in the Office of the Register of Deeds albeit valid as between the parties therein.

As correctly pointed out by the [respondents], the law has exceptions.