

## THIRD DIVISION

[ G.R. No. 156310, July 31, 2008 ]

**XERXES A. ABA DIAN O, PETITIONER, VS. SPOUSES JESUS AND  
LOLITA MARTIR, RESPONDENTS.**

### D E C I S I O N

**NACHURA, J.:**

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Civil Procedure assailing the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated March 14, 2002 and its Resolution<sup>[2]</sup> dated November 21, 2002 in CA-G.R. CV No. 51679. The CA affirmed the Decision of the Regional Trial Court (RTC) of Kabankalan, Negros Occidental <sup>[3]</sup> declaring respondents as the owners of the property in question.

The case stemmed from an action for quieting of title and/or recovery of possession<sup>[4]</sup> of a parcel of land filed by herein respondents against Roberto Abadiano, Faustino Montaña, and Quirico Mandaguit. Petitioner Xerxes A. Abadiano intervened in that case.

Lot No. 1318 of the Kabankalan Cadastre consists of 34,281 square meters covered by Original Certificate of Title (OCT) No. 20461 issued on November 19, 1923 in the name of the spouses Inocentes Bañares and Feliciano Villanueva. Before the issuance of OCT No. 20461, however, Inocentes and the heirs of Feliciano Villanueva (who had predeceased her husband) executed an Agreement of Partition dated June 1, 1922 over Lot No. 1318. The lot was partitioned and distributed as follows: (1) 14,976 sq m denominated as Lot No. 1318-A, in favor of Demetrio Bañares; (2) 10,125 sq m denominated as Lot No. 1318-B, in favor of Ramon and David Abadiano (grandchildren of Inocentes and Feliciano); and (3) 10,180 sq m denominated as Lot No. 1318-C, in favor of Amando Bañares. The partition is embodied in a Deed of Partition executed on June 1, 1922 and notarized the following day by Notary Public Jose Peralta with notarial inscriptions "Reg. No. 64, Pag. 69, Libro III." <sup>[5]</sup>

On September 30, 1939, David Abadiano, who was absent during the execution of the Agreement of Partition, executed a Deed of Confirmation acknowledging and ratifying the document of partition.<sup>[6]</sup>

OCT No. 20461 was administratively reconstituted on February 15, 1962 and in lieu thereof OCT No. RO-8211 (20461) was issued over Lot No. 1318, still in the name of Inocentes Bañares and Felicidad Villanueva. Annotated at the back of the reconstituted title were the Agreement of Partition and the Deed of Confirmation.<sup>[7]</sup>

On June 14, 1957 Demetrio Bañares sold his share of the lot to his son, Leopoldo. The same was annotated at the back of OCT No. RO-8211 (20461).<sup>[8]</sup>

Subsequently, on February 21, 1962, Leopoldo Bañares filed before the Court of First Instance (CFI) of Negros Occidental an *ex-parte* petition praying for: first, the confirmation of the Agreement of Partition, the Conformity executed by David Abadiano, and the Deed of Sale between him and his father; and second, the cancellation of OCT No. RO-8211 (20461) and, in lieu thereof, the issuance of a new certificate of title over the property. In an Order dated February 22, 1962, the court ordered the cancellation of OCT No. RO-8211 (20461) and the issuance of a new certificate of title in the names of Dr. Leopoldo Bañares, Amando Bañares, and Ramon and David Abadiano. Pursuant thereto, Transfer Certificate of Title (TCT) No. T-31862 was issued by the Register of Deeds for Negros Occidental.<sup>[9]</sup>

Petitioner insists that this is still the valid and subsisting title over Lot No. 1318 and that no sale of the portion pertaining to Ramon and David Abadiano ever took place.<sup>[10]</sup>

On the other hand, respondent spouses alleged that, prior to the issuance of TCT No. T-31862, Ramon Abadiano, for himself and on behalf of David Abadiano, had already sold their rights and interests over Lot No. 1318-C<sup>[11]</sup> to Victor Garde. The sale was allegedly evidenced by a document of sale (*Compra Y Venta*) dated June 3, 1922 and acknowledged before Notary Public Jose Peralta and bearing notarial inscription "Doc. No. 64, Pag. No. 60, Book No. III, series of 1922." The sale was allegedly affirmed by David Abadiano in a document dated September 30, 1939.<sup>[12]</sup>

They further alleged that from the time of the sale, Victor Garde and his heirs were in continuous, public, peaceful, and uninterrupted possession and occupation in the concept of an owner of Lot No. 1318-C.<sup>[13]</sup> On December 29, 1961, the heirs of Victor Garde sold their rights and interests over Lot No. 1318-C<sup>[14]</sup> to Jose Garde, who immediately took possession thereof. Jose Garde continuously planted sugarcane on the land until he sold the property to Lolita Martir in 1979.<sup>[15]</sup>

After acquiring the property, respondent spouses continued to plant sugarcane on the land. Sometime in March 1982, after respondent Jesus Martir harvested the sugarcane he had planted on Lot No. 1318-C, defendant below Roberto Abadiano (son of Ramon) allegedly entered the property and cultivated the remaining stalks of sugarcane and refused to vacate despite demands to do so. The following year, defendants Roberto Abadiano, Faustino Montaña, and Quirico Mandaguit again harvested the sugarcane on Lot No. 1318-C.<sup>[16]</sup> Further, the defendants also entered the property and harvested the sugarcane on Lot No. 1318-B,<sup>[17]</sup> which by then had been acquired by Lolita B. Martir from her adoptive father, Amando Bañares.<sup>[18]</sup>

Thus, in April 1982, herein respondent-spouses filed the Action to Quiet Title and/or Recovery of Possession with Damages before the then CFI of Negros Occidental.

In their Answer with Counterclaim,<sup>[19]</sup> defendants denied that the subject property was ever sold by Ramon and David Abadiano, and that, consequently, defendant Roberto Abadiano had inherited the same from Ramon. They also alleged, by way of Special and Affirmative Defenses, that the subject land still belonged to the estate of Ramon and David Abadiano and was never alienated. They alleged further that

the act of spouses Martir in planting sugarcane on the land was without Roberto's consent; that Roberto had demanded that the spouses Martir pay him reasonable rental for the land but that they had persistently refused to do so; and that sometime in March 1981, Roberto and the spouses Martir came to an agreement whereby the defendant continued to cultivate the remaining stalks of sugarcane left by plaintiffs and that until the harvest of said sugarcane, plaintiffs never posed any objection thereto.

Xerxes Abadiano intervened in the proceedings before the trial court alleging likewise that his predecessor Ramon Abadiano never sold their share of the property to Victor Garde.<sup>[20]</sup>

After trial, the court issued a Decision<sup>[21]</sup> dated June 23, 1995, ruling in favor of the spouses Martir, thus:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants declaring plaintiffs spouses Jesus and Lolita Martir as the true and legitimate owners of portions of Lot No. 1318 Kabankalan Cadastre denominated as Lots 1318-B and 1318-C and ordering:

(1) That the defendants Roberto Abadiano and the intervenor Xerxes Abadiano shall surrender Transfer Certificate of Title No. T-31862 to the Registrar of Deeds of Negros Occidental who is directed to partially cancel said title and issue new Certificate of Title corresponding to Lots 1318-B and 1318-C in the names of the spouses Jesus and Lolita Martir;

(2) That the defendants shall jointly and severally pay to the plaintiffs the amount of Twenty Thousand (P20,000.00) Pesos representing the value of the sugarcanes of plaintiffs which defendants harvested and milled with SONEDCO and;

(3) To pay the costs of this suit.

SO ORDERED.<sup>[22]</sup>

The trial court rejected therein defendants' contention that the *Compra Y Venta* was null and void because the co-owner, David Abadiano, did not sign the same. It held that the Supreme Court has ruled to the effect that the sale by a co-owner of the entire property without the consent of the other co-owners was not null and void but that only the rights of the co-owner-seller are transferred, making the buyer a co-owner. The trial court also held that although the *Compra Y Venta* was not annotated either on the OCT or on the reconstituted OCT, the validity of the sale was not vitiated. The registration or annotation is required only to make the sale valid as to third persons. Thus, the trial court concluded that the *Compra Y Venta* was valid between the parties, Ramon Abadiano and Victor Garde.

The trial court also brushed aside the defendants' contention that the *Compra Y Venta* contained the same notarial inscription as the Deed of Partition. It said that assuming this to be true, this may be considered an error which did not nullify the *Compra Y Venta*; at most, the document would be non-registrable but still valid.

On the contention that the alleged confirmation executed by David Abadiano was for

the Deed of Partition and not for the *Compra Y Venta*, the trial court agreed. It, however, interpreted the same to mean that David Abadiano must not have authorized his brother to sell his share in Lot No. 1318-C. The effect was that David Abadiano continued to be one of the registered owners of the property and his heirs stepped into his shoes upon his death.

However, the trial court found that the plaintiffs' (respondents') claim that they and their predecessors-in-interest have been in possession of the property for more than sixty (60) years was duly established. In contrast, the court found that defendants and intervenor, and their deceased parents, had not been in possession of their share in the property. It held that the defendants and intervenor were guilty of laches for failing to avail of the many opportunities for them to bring an action to establish their right over Lot No. 1318-C.

Defendants appealed to the CA. However, the same was summarily dismissed in a Resolution dated February 11, 1997 due to defendants' failure to pay the required docket fee within the period set. Nonetheless, the records were retained for the appeal of Xerxes Abadiano, intervenor in the trial court.

On March 14, 2002, the CA rendered a Decision affirming the Decision of the RTC *in toto*.<sup>[23]</sup>

Xerxes Abadiano now comes before this Court raising the following arguments:

A

THE HONORABLE COURT OF APPEALS ERRED, BASED ON ITS MISAPPREHENSION AND/OR OMISSION OF THE FACTS, IN DISREGARDING THE PRIMORDIAL ISSUE OF WHETHER OR NOT THE DEED OF SALE ("COMPRA Y VENTA") IS A SPURIOUS DOCUMENT

B

THE HONORABLE COURT OF APPEALS ERRED IN FINDING PETITIONER GUILTY OF LACHES OVER REGISTERED LAND<sup>[24]</sup>

The Petition is impressed with merit. We believe the trial court and the CA erred in ruling for the respondents. Accordingly, we reverse the assailed Decision and Resolution.

It is well settled that the findings of fact of the trial court, especially when affirmed by the CA, are accorded the highest degree of respect, and generally will not be disturbed on appeal. Such findings are binding and conclusive on the Court. Further, it is not the Court's function under Rule 45 of the 1997 Revised Rules of Civil Procedure to review, examine and evaluate or weigh the probative value of the evidence presented. The jurisdiction of the Court in a petition for review under Rule 45 is limited to reviewing only errors of law. Unless the case falls under the recognized exceptions, the rule shall not be disturbed.<sup>[25]</sup>

However, this Court has consistently recognized the following exceptions: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2)

when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record. [26]

In the present case, we find that the trial court based its judgment on a misapprehension of facts, as well as on the supposed absence of evidence which is contradicted by the records.

In appreciating the alleged *Compra Y Venta* presented by respondents, the trial court concluded that "[t]he parties have no quarrel on the existence of a Deed of Sale of a portion of Lot No. 1318 executed by Ramon Abadiano for himself and as representative of David Abadiano, dated June 3, [1922] in favor of Victor Garde." [27]

The trial court erred in its conclusion.

Borne very clearly by the records is the defendants' repudiation of the existence of the sale in their Answer with Counterclaim. They stated:

2. That defendants admit plaintiffs' allegation in paragraph 4 that there has been no particular designation of lot number (sic) for each of the co-owner (sic) of Lot No. 1318 but specifically deny under oath the other allegations thereof the truth being that the property referred to here as Lot No. 1318 remains undivided to this day that the owners thereof as shown by the TCT No. 31862 co-own the same pro-indiviso;

3. That defendants have no knowledge sufficient to form a belief as to the truth of the allegations in paragraph 5 [28] and therefore **specifically deny the same under oath** the truth being that Ramon Abadiano and David Abadiano had not sold the land at bar to anyone and that consequently, defendant Roberto Abadiano had inherited the same from the former; x x x. [29] (emphasis supplied).

Likewise, petitioner specifically denied the allegations in paragraph 5 of the Complaint. He alleged that the lot "had never been sold or alienated and the same still remains intact as the property of the Intervenor and his co-owners by operation of law." [30]

This was testified to by Roberto Abadiano during the trial, thus:

Q: During the lifetime of your father, do you know if your father has ever sold to any party his share on Lot No. 1318?

A: He has not sold his share. [31]