582 Phil. 138

THIRD DIVISION

[G.R. No. 159578, July 28, 2008]

ROGELIA DACLAG AND ADELINO DACLAG (DECEASED) SUBSTITUTED BY RODEL M. DACLAG AND ADRIAN M. DACLAG,PETITIONERS, LORENZA HABER AND BENITA DEL ROSARIO RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[1] dated October 17, 2001 and the Resolution[2] dated August 7, 2003 of the Court of Appeals (CA) in CA G.R. CV No. 48498.

The antecedent facts:

During their lifetime, the spouses Candido and Gregoria Macahilig were the owners of seven parcels of land, all located in Numancia, Aklan. They had seven children, namely: Dionesio, Emeliano, Mario, Ignacio, Eusebio, Tarcela and Maxima.

On March 18, 1982, Maxima, a daughter of Candido and Gregoria entered into a Deed of Extra-judicial Partition[3] with the heirs of her deceased brothers, Mario and Eusebio Macahilig, over the seven parcels of land. The same deed stated that Dionesio was already deceased but was survived by his daughter, Susana Briones; Emeliano was out of the country; Ignacio and Tarcela were also both deceased but were survived by three children each.

One of the properties partitioned in the Deed was a parcel of irrigated riceland located at Poblacion, Numancia, Aklan, with an area of 1,896 square meters declared in the name of Maxima under Tax Declaration No. 644 which was denominated as "Parcel One." This Parcel One was divided between Vicenta Macahilig Galvez for the heirs of Mario Macahilig, who was given the one half southern portion of the land; and Adela Macahilig for the heirs of Eusebio Macahilig, who got the one half northern portion. The Deed was notarized by Municipal Judge Francisco M. Ureta in his capacity as *ex-officio* notary public. The heirs of Eusebio Macahilig are the herein respondents.

On March 19, 1982, Maxima executed a Statement of Conformity[4] in which she confirmed the execution of the Deed of Extra-judicial Partition and conformed to the manner of partition and adjudication made therein. She also attested that five parcels of land in the deed were declared in her name for taxation purposes, although said lands were actually the property of her deceased parents Candido and Gregoria Macahilig; that she waived, renounced and relinquished all her rights to the land adjudicated to all her co-heirs in the deed; and that she had already sold one

parcel before the deed was executed, which was considered as her advance share. Pedro Divison, Maxima's husband, also affixed his signature to the Statement of Conformity.

On May 23, 1984, Maxima sold Parcel One to spouses Adelino and Rogelia Daclag (petitioners) as evidenced by a Deed of Sale[5].

On July 17, 1984, OCT No. P-13873[6] was issued in the name of petitioner Rogelia M. Daclag by virtue of her free patent application.

On December 16, 1991, Elino Macahilig, Adela Macahilig, Conrado Macahilig, Lorenza Haber and Benita del Rosario (respondents) filed with the Regional Trial Court (RTC) of Kalibo, Aklan a complaint for recovery of possession and ownership, cancellation of documents and damages against Maxima and petitioners, docketed as Civil Case No. 4334.

Respondents alleged that they were the lawful owners and previous possessors of the one half northern portion of Parcel One by virtue of a Deed of Extra-judicial Partition; that since they were all residents of Caloocan City, their land was possessed by their first cousin, Penicula Divison Quijano, Maxima's daughter, as tenant thereon, as she was also in possession of the one half southern portion as tenant of the heirs of Mario Macahilig; that sometime in 1983, upon request of Maxima and out of pity for her as she had no share in the produce of the land, Penicula allowed Maxima to farm the land; that without their knowledge, Maxima illegally sold on May 23, 1984, the entire riceland to petitioners, who are now in possession of the land, depriving respondents of its annual produce valued at P4,800.00.

In their Answer with Cross-Claim, petitioners contended that: petitioner Rogelia had been the registered owner of the entire riceland since 1984 as evidenced by OCT No. P-13873; her title had become incontrovertible after one year from its issuance; they purchased the subject land in good faith and for value from co-defendant Maxima who was in actual physical possession of the property and who delivered and conveyed the same to them; they were now in possession and usufruct of the land since then up to the present; respondents were barred by laches for the unreasonable delay in filing the case. They also filed a cross-claim against Maxima for whatever charges, penalties and damages that respondents may demand from them; and they prayed that Maxima be ordered to pay them damages for the fraud and misrepresentation committed against them.

Respondents subsequently filed an Amended Complaint, upon learning that petitioners were issued OCT No. 13873 by virtue of their free patent application, and asked for the reconveyence of the one half northern portion of the land covered by such title.

The land in question was delimited in the Commissioner's Report and sketch submitted by Bernardo G. Sualog as the one half northern portion, which had an area of 1178 sq. meters. The Report and the sketch were approved by the RTC on June 22, 1991.

For failure of Maxima to file an answer, the RTC declared her in default both in the

complaint and cross-claim against her.

After trial, the RTC rendered its Decision[7] dated November 18, 1994, the dispositive portion of which reads:

> WHEREFORE, finding preponderance of evidence in favor of plaintiffs [respondents], judgment is hereby rendered as follows:
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> 1. The deed of sale dated May 23, 1984, executed by Maxima Divison in favor of Adelino Daclag and Rogelia Daclag before Notary Public Edgar R. Peralta and docketed in his notarial register as Doc. No. 137, Page No. 30, Book No. VII, Series of 1984 is declared NULL and VOID;
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> 2. The plaintiffs are hereby declared the true and lawful owners and entitled to the possession of the northern one-half (1/2) portion of the land described under paragraph 2 of the amended complaint and designated as Exhibit "F-1" in the commissioners' sketch with an area of 1,178 square meters;
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> 3. The defendants-spouses Adelino and Rogelia Daclag [petitioners] are hereby ordered and directed to vacate the land described in the preceding paragraph and restore and deliver the possession thereof to the plaintiffs;
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> 4. The defendants are ordered to execute a deed of reconveyance in favor of the plaintiffs over the land described in paragraph 2 hereof;
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> 5. The defendants are ordered, jointly and severally, to pay the plaintiffs ten (10) cavans of palay per annum beginning the second cropping of 1984 until the time the possession of the land in question is restored to the plaintiffs; and
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> 6. The defendants are ordered, jointly and severally, to pay the plaintiffs reasonable attorney's fees in the amount of P3,000.00 plus cost of the suit.[8]

The RTC found that respondents were able to establish that Parcel One was divided between the heirs of Mario and the heirs of Eusebio, with the former getting the one half southern portion and the latter the one half northern portion embodied in a Deed of Extra-judicial partition, which bore Maxima's thumbmarks; that nobody questioned the Deed's validity, and no evidence was presented to prove that the document was not validly and regularly executed; that Maxima also executed a duly notarized Statement of Conformity dated March 19, 1982 with the conformity of her husband, Pedro. The RTC concluded that when Maxima executed the Deed of Sale in favor of petitioners on May 23, 1984, Maxima had no right to sell that land as it did not belong to her; that she conveyed nothing to petitioners; and that the deed of sale should be declared null and void.

In disposing the issue of whether petitioners could be considered innocent purchasers for value, the RTC ruled that petitioners could not even be considered purchasers, as they never acquired ownership of the land since the sale to them by

Maxima was void; and that petitioners' act of reflecting only the price of P5,000.00 in the Deed of Sale to avoid paying taxes to the BIR should be condemned for defrauding the government and thus should not be given protection from the courts.

The RTC further ruled that since petitioners were able to obtain a free patent on the whole land in petitioner Rogelia's name, reconveyance to respondents of the 1,178 sq. meter northern portion of the land was just and proper; that the respondents were entitled to a share in the harvest at two croppings per year after deducting the share of the tenant; that since Maxima died in October 1993, whatever charges and claims petitioners may recover from her expired with her.

Aggrieved, petitioners filed their appeal with the CA.

On October 17, 2001, the CA dismissed the appeal and affirmed the RTC decision.

The CA ruled that since Maxima had no right to sell the land as she was not the rightful owner thereof, nothing was conveyed to petitioners; that a person who acquired property from one who was not the owner and had no right to dispose of the same, obtained the property without right of title, and the real owner may recover the same from him.

The CA found that since respondents were unaware of the sale, it was not a surprise that they did not question petitioners' application for a free patent on the subject land; that the possession by Maxima of the subject land did not vest ownership in her, as her possession was not in the concept of an owner; and that petitioners were not purchasers in good faith. It also found that the right to enjoy included the right to receive the produce of the thing; that respondents as true owners of the subject land were deprived of their property when Maxima illegally sold it to petitioners; and thus, equity demanded that respondents be given what rightfully belonged to them under the principle that a person cannot enrich himself at the expense of another.

Hence, herein petition on the following grounds:

A. THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR WHEN IT DECLARED THAT HEREIN PETITIONERS HAD NO VALID TITLE OVER THE LAND IN QUESTION.

B. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT PETITIONERS ARE NOT PURCHASERS OR BUYERS IN GOOD FAITH.

C. THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT AFFIRMED THE DECISION OF THE LOWER COURT IN ORDERING THE DEFENDANTS-PETITIONERS JOINTLY AND SEVERALLY TO PAY PER ANNUM BEGINNING THE SECOND CROPPING OF 1984 UNTIL THE TIME THE POSSESSION OF THE LAND IN QUESTION IS RESTORED TO THE PLAINTIFFS [respondents].[9]

The issues for resolution are (1) whether Maxima was the previous owner of Parcel One, which included respondents' one half northern portion, now covered by OCT No. P-13873; 2) whether petitioners could validly invoke the defense of purchasers in good faith; and (3) whether reconveyance is the proper remedy.

Preliminarily, we would like to state the inescapable fact that the Extra-judicial partition of the estate of Candido Macahilig involving the seven parcels of land was made only between Maxima and the heirs of her two deceased brothers Mario and Eusebio.

Section 1 of Rule 74 of the Rules of Court provides:

> Section 1. *Extrajudicial settlement by agreement between heirs*. - If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action for partition. x x x
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> The fact of the extrajudicial settlement or administration shall be published in a newspaper of general circulation in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.

Records do not show that there has been any case filed by the other heirs who had not participated in the Deed of Extra-judicial Partition and were questioning the validity of such partition. Thus, the resolution of the present case concerns only the issues between the parties before us and will not in any way affect the rights of the other heirs who have not participated in the partition.

The first two issues raised for resolution are factual. It is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case, considering that the findings of facts of the CA are conclusive and binding on the Court.[10] While jurisprudence has recognized several exceptions in which factual issues may be resolved by this Court, namely: (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 facts 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; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, could justify a different conclusion,[11] none of these exceptions has been shown to apply to the present case and, hence, this Court may not review the findings of fact made by the lower courts.

We find no cogent reason to depart from the findings of both the trial court and the