

THIRD DIVISION

[G.R. No. 176474, November 27, 2008]

HEIRS OF ARTURO REYES, REPRESENTED BY EVELYN R. SAN BUENAVENTURA, PETITIONERS, VS. ELENA SOCCO-BELTRAN, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision^[1] dated 31 January 2006 rendered by the Court of Appeals in CA-G.R. SP No. 87066, which affirmed the Decision^[2] dated 30 June 2003 of the Office of the President, in O.P. Case No. 02-A-007, approving the application of respondent Elena Socco-Beltran to purchase the subject property.

The subject property in this case is a parcel of land originally identified as Lot No. 6-B, situated in Zamora Street, Dinalupihan, Bataan, with a total area of 360 square meters. It was originally part of a larger parcel of land, measuring 1,022 square meters, allocated to the Spouses Marcelo Laquian and Constanica Socco (Spouses Laquian), who paid for the same with Japanese money. When Marcelo died, the property was left to his wife Constanica. Upon Constanica's subsequent death, she left the original parcel of land, along with her other property, with her heirs - her siblings, namely: Filomena Eliza Socco, Isabel Socco de Hipolito, Miguel R. Socco, and Elena Socco-Beltran.^[3] Pursuant to an unnotarized document entitled "Extrajudicial Settlement of the Estate of the Deceased Constanica R. Socco," executed by Constanica's heirs sometime in 1965, the parcel of land was partitioned into three lots--Lot No. 6-A, Lot No. 6-B, and Lot No. 6-C.^[4] The subject property, Lot No. 6-B, was adjudicated to respondent, but no title had been issued in her name.

On 25 June 1998, respondent Elena Socco-Beltran filed an application for the purchase of Lot No. 6-B before the Department of Agrarian Reform (DAR), alleging that it was adjudicated in her favor in the extra-judicial settlement of Constanica Socco's estate.^[5]

Petitioners herein, the heirs of the late Arturo Reyes, filed their protest to respondent's petition before the DAR on the ground that the subject property was sold by respondent's brother, Miguel R. Socco, in favor of their father, Arturo Reyes, as evidenced by the Contract to Sell, dated 5 September 1954, stipulating that:^[6]

That I am one of the co-heirs of the Estate of the deceased Constanica Socco; and that **I am to inherit** as such a portion of her lot consisting of Four Hundred Square Meters (400) more or less located on the (sic) Zamora St., Municipality of Dinalupihan, Province of Bataan, bounded as

follows:

x x x x

That for or in consideration of the sum of FIVE PESOS (P5.00) per square meter, hereby sell, convey and transfer by way of this **conditional sale** the said 400 sq.m. more or less unto Atty. Arturo C. Reyes, his heirs, administrator and assigns x x x. (Emphasis supplied.)

Petitioners averred that they took physical possession of the subject property in 1954 and had been uninterrupted in their possession of the said property since then.

Legal Officer Brigida Pinlac of the DAR Bataan Provincial Agrarian Reform Office conducted an investigation, the results of which were contained in her Report/Recommendation dated 15 April 1999. Other than recounting the afore-mentioned facts, Legal Officer Pinlac also made the following findings in her Report/Recommendation:^[7]

Further investigation was conducted by the undersigned and based on the documentary evidence presented by both parties, the following facts were gathered: that the house of [the] Reyes family is adjacent to the landholding in question and portion of the subject property consisting of about 15 meters [were] occupied by the heirs of Arturo Reyes were a kitchen and bathroom [were] constructed therein; on the remaining portion a skeletal form made of hollow block[s] is erected and according to the heirs of late Arturo Reyes, this was constructed since the year (sic) 70's at their expense; that construction of the said skeletal building was not continued and left unfinished which according to the affidavit of Patricia Hipolito the Reyes family where (sic) prevented by Elena Socco in their attempt of occupancy of the subject landholding; (affidavit of Patricia Hipolito is hereto attached as Annex "F"); that Elena Socco cannot physically and personally occupy the subject property because of the skeletal building made by the Reyes family who have been requesting that they be paid for the cost of the construction and the same be demolished at the expense of Elena Socco; that according to Elena Socco, [she] is willing to waive her right on the portion where [the] kitchen and bathroom is (sic) constructed but not the whole of Lot [No.] 6-B adjudicated to her; that the Reyes family included the subject property to the sworn statement of value of real properties filed before the municipality of Dinalupihan, Bataan, copies of the documents are hereto attached as Annexes "G" and "H"; that likewise Elena Socco has been continuously and religiously paying the realty tax due on the said property.

In the end, Legal Officer Pinlac recommended the approval of respondent's petition for issuance of title over the subject property, ruling that respondent was qualified to own the subject property pursuant to Article 1091 of the New Civil Code.^[8] Provincial Agrarian Reform Officer (PARO) Raynor Taroy concurred in the said recommendation in his Indorsement dated 22 April 1999.^[9]

In an Order dated 15 September 1999, DAR Regional Director Nestor R. Acosta,

however, dismissed respondent's petition for issuance of title over the subject property on the ground that respondent was not an actual tiller and had abandoned the said property for 40 years; hence, she had already renounced her right to recover the same.^[10] The dispositive part of the Order reads:

1. DISMISSING the claims of Elena Socco-Beltran, duly represented by Myrna Socco for lack of merit;
2. ALLOCATING Lot No. 6-B under Psd-003-008565 with an area of 360 square meters, more or less, situated Zamora Street, Dinalupihan, Bataan, in favor of the heirs of Arturo Reyes.
3. ORDERING the complainant to refrain from any act tending to disturb the peaceful possession of herein respondents.
4. DIRECTING the MARO of Dinalupihan, Bataan to process the pertinent documents for the issuance of CLOA in favor of the heirs of Arturo Reyes.^[11]

Respondent filed a Motion for Reconsideration of the foregoing Order, which was denied by DAR Regional Director Acosta in another Order dated 15 September 1999.^[12]

Respondent then appealed to the Office of the DAR Secretary. In an Order, dated 9 November 2001, the DAR Secretary reversed the Decision of DAR Regional Director Acosta after finding that neither petitioners' predecessor-in-interest, Arturo Reyes, nor respondent was an actual occupant of the subject property. However, since it was respondent who applied to purchase the subject property, she was better qualified to own said property as opposed to petitioners, who did not at all apply to purchase the same. Petitioners were further disqualified from purchasing the subject property because they were not landless. Finally, during the investigation of Legal Officer Pinlac, petitioners requested that respondent pay them the cost of the construction of the skeletal house they built on the subject property. This was construed by the DAR Secretary as a waiver by petitioners of their right over the subject property.^[13] In the said Order, the DAR Secretary ordered that:

WHEREFORE, premises considered, the September 15, 1999 Order is hereby SET ASIDE and a new Order is hereby issued APPROVING the application to purchase Lot [No.] 6-B of Elena Socco-Beltran.^[14]

Petitioners sought remedy from the Office of the President by appealing the 9 November 2001 Decision of the DAR Secretary. Their appeal was docketed as O.P. Case No. 02-A-007. On 30 June 2003, the Office of the President rendered its Decision denying petitioners' appeal and affirming the DAR Secretary's Decision.^[15] The *fallo* of the Decision reads:

WHEREFORE, premises considered, judgment appealed from is **AFFIRMED** and the instant appeal **DISMISSED**.^[16]

Petitioners' Motion for Reconsideration was likewise denied by the Office of the President in a Resolution dated 30 September 2004.^[17] In the said Resolution, the Office of the President noted that petitioners failed to allege in their motion the date

when they received the Decision dated 30 June 2003. Such date was material considering that the petitioners' Motion for Reconsideration was filed only on 14 April 2004, or almost nine months after the promulgation of the decision sought to be reconsidered. Thus, it ruled that petitioners' Motion for Reconsideration, filed beyond fifteen days from receipt of the decision to be reconsidered, rendered the said decision final and executory.

Consequently, petitioners filed an appeal before the Court of Appeals, docketed as CA-G.R. SP No. 87066. Pending the resolution of this case, the DAR already issued on 8 July 2005 a Certificate of Land Ownership Award (CLOA) over the subject property in favor of the respondent's niece and representative, Myrna Socco-Beltran. [18] Respondent passed away on 21 March 2001, [19] but the records do not ascertain the identity of her legal heirs and her legatees.

Acting on CA-G.R. SP No. 87066, the Court of Appeals subsequently promulgated its Decision, dated 31 January 2006, affirming the Decision dated 30 June 2003 of the Office of the President. It held that petitioners could not have been actual occupants of the subject property, since actual occupancy requires the positive act of occupying and tilling the land, not just the introduction of an unfinished skeletal structure thereon. The Contract to Sell on which petitioners based their claim over the subject property was executed by Miguel Socco, who was not the owner of the said property and, therefore, had no right to transfer the same. Accordingly, the Court of Appeals affirmed respondent's right over the subject property, which was derived from the original allocatees thereof. [20] The *fallo* of the said Decision reads:

WHEREFORE, premises considered, the instant **PETITION FOR REVIEW** is **DISMISSED**. Accordingly, the Decision dated 30 June 2003 and the Resolution dated 30 December 2004 both issued by the Office of the President are hereby **AFFIRMED in toto**. [21]

The Court of Appeals denied petitioners' Motion for Reconsideration of its Decision in a Resolution dated 16 August 2006. [22]

Hence, the present Petition, wherein petitioners raise the following issues:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE FINDINGS OF THE OFFICE OF THE PRESIDENT THAT THE SUBJECT LOT IS VACANT AND THAT PETITIONERS ARE NOT ACTUAL OCCUPANTS THEREOF BY DENYING THE LATTER'S CLAIM THAT THEY HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE, NOTORIOUS AND AVDERSE POSSESSION THEREOF SINCE 1954 OR FOR MORE THAN THIRTY (30) YEARS.

II

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT HELD THAT PETITIONERS "CANNOT LEGALLY ACQUIRE THE SUBJECT PROPERTY AS THEY ARE NOT CONSIDERED LANDLESS AS EVIDENCED BY A TAX DECLARATION."

III

WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT "...WHATEVER RESERVATION WE HAVE OVER THE RIGHT OF MYRNA SOCCO TO SUCCEED WAS ALREADY SETTLED WHEN NO LESS THAN MIGUEL SOCCO (PREDECESSOR-IN INTEREST OF HEREIN PETITIONERS) EXECUTED HIS WAIVER OF RIGHT DATED APRIL 19, 2005 OVER THE SUBJECT PROPERTY IN FAVOR OF MYRNA SOCCO.

IV

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT DENIED PETITIONERS MOTION FOR NEW TRIAL THEREBY BRUSHING ASIDE THE FACT THAT MYRNA V. SOCCO-ARIZO GROSSLY MISREPRESENTED IN HER INFORMATION SHEET OF BENEFICIARIES AND APPLICATION TO PURCHASE LOT IN LANDED ESTATES THAT SHE IS A FILIPINO CITIZEN, WHEN IN TRUTH AND IN FACT, SHE IS ALREADY AN AMERICAN NATIONAL.^[23]

The main issue in this case is whether or not petitioners have a better right to the subject property over the respondent. Petitioner's claim over the subject property is anchored on the Contract to Sell executed between Miguel Socco and Arturo Reyes on 5 September 1954. Petitioners additionally allege that they and their predecessor-in-interest, Arturo Reyes, have been in possession of the subject lot since 1954 for an uninterrupted period of more than 40 years.

The Court is unconvinced.

Petitioners cannot derive title to the subject property by virtue of the Contract to Sell. It was unmistakably stated in the Contract and made clear to both parties thereto that the vendor, Miguel R. Socco, was not yet the owner of the subject property and was merely expecting to inherit the same as his share as a co-heir of Constanca's estate.^[24] It was also declared in the Contract itself that Miguel R. Socco's conveyance of the subject to the buyer, Arturo Reyes, was a conditional sale. It is, therefore, apparent that the sale of the subject property in favor of Arturo Reyes was conditioned upon the event that Miguel Socco would actually inherit and become the owner of the said property. Absent such occurrence, Miguel R. Socco never acquired ownership of the subject property which he could validly transfer to Arturo Reyes.

Under Article 1459 of the Civil Code on contracts of sale, "The thing must be licit and the vendor must have a right to transfer ownership thereof at the time it is delivered." The law specifically requires that the vendor must have ownership of the property at the time it is delivered. Petitioners claim that the property was constructively delivered to them in 1954 by virtue of the Contract to Sell. However, as already pointed out by this Court, it was explicit in the Contract itself that, at the time it was executed, Miguel R. Socco was not yet the owner of the property and was only expecting to inherit it. Hence, there was no valid sale from which ownership of the subject property could have transferred from Miguel Socco to Arturo Reyes. Without acquiring ownership of the subject property, Arturo Reyes also could not have conveyed the same to his heirs, herein petitioners.