

## SECOND DIVISION

[ G.R. NO. 154026, June 30, 2005 ]

**SPOUSES CERILO AND FRANCISCA PASNGADAN, PETITIONERS,  
VS. SPOUSES VICTOR AND SANGSANGIYO NGAMILOT,  
RESPONDENTS.**

### RESOLUTION

**CALLEJO, SR., J.:**

On December 28, 1983, the spouses Victor Ngamilot and Sangsangiyong Mariano filed a complaint against the spouses Cerilo and Francisca Pasngadan in the Regional Trial Court (RTC) of Bontoc, Mountain Province, Branch 35, for recovery of possession of real property.

#### The Case for the Plaintiffs

The plaintiffs adduced evidence that Victor Ngamilot inherited from his parents two contiguous parcels of land located in Sitio Gogongen, Bo. Guinzadan, Bauko, Mountain Province. He declared one of the parcels of land, Parcel "B," for taxation purposes under his name as owner, with an area of 2,184 square meters, more or less, under Tax Declaration (T.D.) No. 17988.<sup>[1]</sup> The property was declared therein as cogonland. Parcel "A," with an area of 2,804 square meters, was also declared for taxation purposes in his name under T.D. No. 1050 in 1949.<sup>[2]</sup> The property is declared as riceland. The property abutting this lot on the west is that owned by Modawan, the father of Francisca, Ampel and Dampalec Modawan.<sup>[3]</sup>

Meanwhile, Victor was employed as a miner from 1963 to 1970 by Antamok and, thereafter, by the Lepanto Mining Company. His wife Sangsangiyong continued residing in Guinzadan.

Sometime in 1964, the spouses Ngamilot employed their relative, Bartolome Mocnangan, as their tenant in a portion of Parcel "A," south of the riceland (Parcel "A"). They agreed that Bartolome would be entitled to one-half of the produce of the property.<sup>[4]</sup> The tenant planted palay, corn and some other vegetables.<sup>[5]</sup> Cerilo Pasngadan cultivated the property abutting that of the plaintiffs. However, from time to time, he would cultivate a portion of the spouses Ngamilot's property. Victor Ngamilot and Cerilo Pasngadan would quarrel about it.<sup>[6]</sup> However, in 1978, Cerilo Pasngadan again entered the ricefield covered by T.D. No. 1050 and made excavations therein.<sup>[7]</sup> When Bartolome asked why he was excavating the property, Cerilo replied that he owned it.<sup>[8]</sup> By then, Cerilo had been able to cultivate 30 square meters, more or less.<sup>[9]</sup> He had also entered a portion of the riceland and made improvements thereon. Bartolome relayed the matter to Sangsangiyong who, in turn, relayed the matter to her husband who was then employed by the Lepanto Mining Company. The spouses Ngamilot complained to *Barangay* Captains Federico

Ligligan of *Barangay* Guinzadan Central and Tonaloc Paggi of *Barangay* Guinzadan Sur for settlement. Cerilo appeared before the barangay captain and claimed that he acquired the property from Bilagot, his wife's uncle, and from Oblay Cuaco. The latter, however, denied Cerilo's claim. After due investigation, the barangay captain rendered a decision declaring that Victor owned the property and ordered Cerilo to desist from cultivating it.<sup>[10]</sup> Thereafter, Victor went to the property and harvested the growing crops thereon. Cerilo then charged Victor and Bartolome with theft. The case was entitled *People v. Victor Ngamilot, et al.*, and docketed as Criminal Case No. 340. However, the case was later dismissed.

Meanwhile, T.D. No. 17988 was cancelled by T.D. No. 53<sup>[11]</sup> under the name of Victor Ngamilot beginning 1980. In 1984, Victor paid the realty taxes due on the two lots.<sup>[12]</sup>

### **The Case for the Defendants**

A portion of Parcel "A," with an area of 1,150 square meters, was declared for taxation purposes in 1961 under the name of Modawan, the father of Francisca Pasngadan, under T.D. No. 1815.<sup>[13]</sup> T.D. No. 1815 was cancelled by T.D. No. A7204 under the same name in 1951.<sup>[14]</sup> In 1974, T.D. No. A7204 was cancelled by T.D. No. 23306.<sup>[15]</sup> In 1980, T.D. No. 23306 was cancelled by T.D. No. 24220,<sup>[16]</sup> in 1980, which, in turn, was cancelled by T.D. No. 24081<sup>[17]</sup> in 1988. When Francisca and Cerilo were married after the Second World War, her father gave her the property.

The couple took possession of the property and planted *palay*. After five years, they changed crops and planted potatoes, carrots, corn and beans because of lack of rainfall.<sup>[18]</sup> No one ever disturbed their possession of the property.

A portion of the property with an area of 531 square meters claimed by the plaintiffs under T.D. No. 53 was declared for taxation purposes under the name of Cerilo in 1974 under T.D. No. 28910,<sup>[19]</sup> thus, was cancelled in 1974 by T.D. No. 5101 which, in turn, was cancelled by T.D. No. 16808 in 1985.<sup>[20]</sup> The property is classified as rootcrops land.

Municipal Assessor Nicolas Kimakim testified that, per request of Victor, he went to Parcel "A" and inspected and measured the same. The property was abutted on the north by the creek; on the west, by the property of Francisca Pasngadan;<sup>[21]</sup> and on the east, by a mountain.<sup>[22]</sup>

In the course of the trial, the parties conducted an ocular inspection of the two lots. The court was represented by the Branch Clerk of Court, who drew a sketch showing the portions claimed by the plaintiffs and the defendants, respectively. The sketch<sup>[23]</sup> showed the disputed property between the ricefield on the west side and the property owned by Modawan on the east side.

The defendants presented Luis Badecao to rebut the testimony of Dampalec, the older brother of Francisca, that the property on the west of Parcel "A" was given to him and his brother Ampel by their uncle Bilagot, and that his sister Francisca had

no share in the property. During the trial, Luis testified that as early as 1950, he passed by the said ricefield on his way to his property<sup>[24]</sup> and saw Cerilo working on that portion of the ricefield.<sup>[25]</sup>

After trial, the court rendered judgment in favor of the defendants, ordering the dismissal of the complaint. The trial court ruled that the plaintiffs (spouses Ngamilot) failed to prove their ownership and right of possession over the disputed property.

The spouses Ngamilot appealed to the Court of Appeals (CA) which rendered judgment setting aside and reversing the decision of the RTC. It ordered the spouses Pasngadan to turn over possession of the property to the spouses Ngamilot. The appellate court declared that the spouses Ngamilot adduced preponderant evidence to prove their right to the possession of the disputed property.

The spouses Pasngadan, now the petitioners, filed their petition for review on *certiorari* with this Court, and raised the following issues for resolution:

#### I

WHETHER OR NOT THE PETITIONERS HAVE AMPLY ESTABLISHED BY PREPONDERANCE OF EVIDENCE THAT THEY HAVE THE BETTER RIGHT OF POSSESSION OVER THE SUBJECT PARCELS OF LAND.

#### II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN SETTING ASIDE THE FINDINGS OF THE COURT A QUO THAT THE PRIVATE RESPONDENTS FAILED TO PROVE WITH THE REQUISITE QUANTUM OF EVIDENCE THAT THEY HAD POSSESSION AS A RIGHT BY VIRTUE OF A TITLE OR MODE OF ACQUISITION OVER THE DISPUTED PARCELS OF LAND.

#### III

WHETHER OR NOT TAX DECLARATIONS AND REALTY TAX RECEIPTS HAVE PROBATIVE VALUE IN ACTIONS TO RECOVER POSSESSION.<sup>[26]</sup>

The issues raised in the petition are factual. Under Rule 45 of the Rules of Court, only questions of law may be raised in this Court, the reason being that the Court is not a trier of facts; hence, it is not to reexamine and recalibrate the evidence on record. However, the rule is not without exception. Thus, the Court may delve into and resolve questions of facts where the findings and conclusions of the trial court are incorrect, when in arriving at their findings of the appellate court and its conclusions based on the said findings, the trial court ignored, overlooked, misconstrued or misinterpreted cogent facts and circumstances of substance which, if considered, will modify or even reverse the outcome of the case.

In the present case, the findings and conclusions of the trial court are inconsistent with those of the appellate court. The petitioners assert that the findings and conclusions of the trial court are correct. They aver that the respondents failed to