

TWENTIETH DIVISION

[C.A.-G.R. CEB C.V. No. 01018, January 09, 2015]

HEIRS OF MAXIMO RAPADA AND CRISPINA CAÑETE, NAMELY: ELDA RAPADA LOREDO, JOSE R. ALAMEDA, PRECIOSA R. NOBIS, GODFREY R. CAPANAS, DANESA R. ZAMORA AND ROLANDO R. ALAMEDA, AND ATTORNEY-IN-FACTS OF THE OTHER CO-HEIRS, PLAINTIFFS-APPELLANTS, VS. HEIRS OF ANTONIO RAPADA, NAMELY: REBECCA R. BALLE, LETECIA RAPADA MENITA AND SILVESTRA RAPADA BU-AYAN, DEFENDANTS-APPELLEES.

DECISION

HERNANDO, J:

Before Us is an appeal interposed by plaintiffs-appellants from the May 6, 2005 *Decision*^[1] dismissing the *Complaint* in Special Civil Action No. 98-114 for *Declaration of Co-ownership, Partition and Damages* before the Regional Trial Court (RTC), Branch 66 of Barotac-Viejo, Iloilo, the dispositive portion of which states:

WHEREFORE, finding that the complaint lacks evidentiary support in this present action for partition against the defendants, the same is ordered dismissed with costs against the plaintiffs.

The court finds no evidentiary basis to grant the prayer for damages counter-claimed by the defendants and the same is likewise dismissed.

The defendants counter-claim to order plaintiffs to deliver to them the possession of Lot 882 and 883 confine only to the plaintiffs who have their houses on the property, considering however that the relief sought partakes a nature of an ejectment suit which is not allowed in Sec. 7, Rule 6 of the Rules of Civil Procedure, the same is likewise dismissed.

SO ORDERED.

Plaintiffs-appellants assert that the RTC erred in dismissing the *Complaint* for lack of sufficient support in this partition case and thus pray for the reversal of the assailed judgment.

The Antecedents

On January 16, 1998, plaintiffs initiated a *Complaint*^[2] for the declaration of co-ownership, partition and damages against defendants over two parcels of land known as Lot No. 882, containing an area of 2.8339 hectares, and Lot No. 883,^[3] containing an area of .3162 hectares. Both properties are located in Botongon, Estancia, Iloilo.

According to plaintiffs, said properties were owned by Spouses Maximo and Crispina Rapada, the common predecessors of both parties. Thus, upon the couples' demise, all of the children of Maximo and Crispina, herein plaintiffs and Antonio Rapada, should have inherited the properties equally and not only by Antonio Rapada, the predecessor of the defendants. However, despite exhausting earnest efforts towards an amicable settlement since all of the parties belong to the same family, the defendants remained steadfast and excluded plaintiffs in the registration of the said parcels of land.^[4]

In their *Answer*,^[5] defendants denied that plaintiffs are also the owners of the property since they (defendants) trace their ownership of the property not from Maximo and Crispina Rapada. In effect, said spouses from where the plaintiffs claim their supposed ownership, were never the owners of the property.

According to defendants, Antonio Rapada originally acquired Lots Nos. 882 and 883 from Remedios Inventor, Patricio Inventor, Josefina Inventor, Agripina Inventor, Loreto Inventor and Florenda Inventor by way of sale which document was notarized in September 1943 under the Notarial Registry of Notary Public Felix S. Ravena as Doc. No. 8, Page No. 2, Book No. II, Series of 1943. If ever some plaintiffs are occupying some parts of the properties, it was by tolerance and out of humanitarian considerations. However, plaintiffs cannot inherit from Antonio Rapada and hence, have no right to claim partition.^[6]

The Ruling of the RTC

After both parties had adduced their respective evidence, and after the conduct of an ocular inspection over the property,^[7] the court *a quo* found no basis to grant the *Complaint* filed by plaintiffs. The RTC opined that the plaintiffs failed to adduce sufficient evidence that they are indeed entitled to the possession and ownership of the subject property as they claimed, thus:

From the testimonial and documentary evidences submitted by the parties, the court finds and holds that defendant Rebecca Balles has a preponderance of evidence sufficient enough to declare her as lawful owner of Lot 882 and 883. The claim of the plaintiffs that the property are still part of the estate of the deceased Maximo Rapada and Crispina Canete are still co-owned by all the plaintiffs and the herein defendants has no support documentary evidence. Although there is a plan issued to plaintiff Jose Alameda (Exh. "D"), however, it is only a sketch of Lot 882 and 883 which can easily be obtained from the Bureau of Lands or the CENRO. There is nothing in the certification which states therein that Lot 882 and 883 were surveyed for Maximo Rapada and Crispina Cañete or heirs. The certification only states that the sketch plan is a true and correct plan as plotted based on the records of Cadastral Case No. 633-D Estancia Cadastre in the files at the CENRO Sara, Iloilo. While plaintiffs' Exh. "E", "F" and "G" try to show that the plaintiffs filed a protest to the Free Patent Application of Rebecca Balles before the CENRO, however, there was nothing to show that their protest was given due course nor the free patent proceedings was finally adjudicated. In fact, in Exh. "E", it was clearly stated that the protest will be dropped by reason of the information given by one of the plaintiffs that their conflict with Rebecca

Balles over Lot 882 and 883 will be brought to court and will be settled judicially.

The court *a quo* discoursed that the evidence presented by Rebecca Balles, which consisted of tax declarations and tax receipts in the name of her predecessors dating back since 1946, preponderated in her favor that said property was acquired by her father, Antonio Rapada and not by Maximo Rapada and Crispina Cañete. Moreover, said tax declarations were revised continuously until the property was declared in the name of Rebecca Balles, who became the sole owner of the property upon her siblings' conveyance of their rights over the property to her. The trial court also found that defendants were also in possession of the property considering that some of them had houses standing on the subject property.

Assignment of Errors and Issues

On May 6, 2005, the RTC found no merit in plaintiffs' Complaint and thus, proceeded to dismiss it. Likewise, for want of evidentiary basis, the counterclaim for damages and delivery of possession by defendants was dismissed by the trial court.

Consequently, plaintiffs were constrained to file this appeal anchored on the following assignment of errors, to wit:

- a. The decision of the trial court is null and void for failure to state the law on which its findings of facts are based required in Section 1, Rule 36 of the 1997 Rules of Civil Procedure;
- b. The trial court erred in appreciating the evidence in favor of defendants-appellees in particular, in ruling that defendants-appellees inherited the subject properties from their deceased father Antonio Rapada, who purchased Assessor's Lot No. 16 and 17 from the Inventors situated at Barangay Tanza-Estancia, Iloilo, Philippines; and
- c. The trial court erred in dismissing plaintiff-appellant Complaint and in refusing to grant the reliefs prayed for the said plaintiffs-appellants.

and at the same time presented the following issues for determination by this Court, thus:

1. Whether or not Cadastral Lot No. 882 and No. 883 declared as private agricultural land situated at Barangay Botongon, Poblacion, Estancia, Iloilo, acquired by way of acquisitive prescription of the deceased Spouses Maximo Rapada and Cristina Cañete;
2. Whether or not Assessors Lots No. 16 and 17 situated in Barangay Tanza, Estancia, Iloilo claimed by defendant Rebecca Rapada Valle by way of absolute sale from the declared owners Inventor are the same lots subject for partition by the parties to this case;
3. Whether or not Cadastral Lot No. 882 and 883 could be the subject of partition among the surviving compulsory heirs of Spouses Maximo Rapada and Crispina Cañete parties to this case; and