

## TWENTY-FIRST DIVISION

[ CA-G.R. CV NO. 02625, March 28, 2014 ]

**BELINDA C. SABANAL-BAAL, REPRESENTED BY DANILO S. BAAL  
AND AMADO S. BAAL, PLAINTIFF-APPELLANT, VS. SPOUSES  
EDMUNDO AND SUSAN GANABAN AND THE REGISTER OF DEEDS  
OF CAGAYAN DE ORO CITY, DEFENDANTS-APPELLEES.**

### D E C I S I O N

**BORJA, J.:**

APPEAL under Rules 41 and 44 of the Rules of Court from the August 27, 2010 Judgment<sup>[1]</sup> of the Regional Trial Court (RTC), 10<sup>th</sup> Judicial Region, Branch 21, Cagayan de Oro City, in Civil Case No. 2008-195, a suit for "Annulment of Certificate of Title Nos. T-143906 and T-143908 and Quieting of Title with Damages".

#### *The Facts of the Case*

Plaintiff Belinda C. Sabanal-Baal is one of the surviving heirs of the late Spouses Galo and Candida Cabulosan-Sabanal. When Candida died in 1966, all the properties of the spouses Sabanal were orally partitioned among Galo and his six (6) children namely: plaintiff Belinda, Ester C. Sabanal-Caylo, Rosa C. Sabanal, Clieto Sabanal, Francisco C. Sabanal and Corazon C. Sabanal-Cahoy.<sup>[2]</sup>

Among the partitioned properties of the spouses Sabanal is Cadastral Lot 1293-C-4 covered under Tax Declaration No. 72321 situated in Kauswagan, Cagayan de Oro City with an area of 727 square meters.<sup>[3]</sup> Allegedly, two-thirds (2/3) of the said property was assigned to Belinda while the remaining one-third (1/3) was assigned to Clieto Sabanal, the predecessor-in-interest of defendant Susan Sabanal Ganaban.<sup>[4]</sup>

Belinda alleges that, since 1996, she has been allegedly occupying her share to the exclusion of all others; that in 1984 and 1987, her children, Amado S. Baal and Danilo S. Baal, with her conformity, built their houses thereon.<sup>[5]</sup>

In 2007, Belinda discovered that defendant Edmundo Ganaban, the husband of defendant Susan Ganaban, was able to secure on October 2, 1989 an Original Certificate of Title No. P-3317<sup>[6]</sup> over Cadastral Lot 1293-C-4. Later, this same lot was subdivided and Transfer Certificates of Title Nos. T-143906<sup>[7]</sup> and T-143908<sup>[8]</sup> were issued in the name of Edmundo Ganaban.

Meanwhile, the properties became the subject of an auction sale by virtue of a Decision rendered by the RTC, Branch 41, Cagayan de Oro City in Civil Case No. 98-696 for "specific performance, etc."<sup>[9]</sup> filed by Venus Trigosa Hanaoka against the spouses Edmundo and Susan Ganaban.<sup>[10]</sup>

In December 2007, upon discovery of the auction sale, Belinda confronted the spouses Ganaban and made a demand for the cancellation of the certificates of title over the said properties.<sup>[11]</sup>

After Belinda's demand went unheeded, she filed the instant case on August 13, 2008 for "Annulment of Certificate of Titles of TCT No. T-143906 and T-143908 and Quieting of Title with Damages" against the spouses Ganaban.<sup>[12]</sup>

On August 20, 2008, the RTC issued summons to spouses Ganaban which the latter duly received.<sup>[13]</sup>

Defendants failed to file an answer to the complaint within the reglementary period. Whereupon, Belinda filed a motion to declare defendants in default<sup>[14]</sup> which the RTC granted in its Order of November 3, 2008.<sup>[15]</sup>

On August 27, 2010, the RTC rendered Judgment dismissing the case for insufficiency of evidence.<sup>[16]</sup> Belinda filed a motion for reconsideration<sup>[17]</sup> which was denied by the RTC in its October 27, 2010 Order.<sup>[18]</sup>

Hence, the present appeal in which Belinda, hereinafter, appellant, ascribes the following as errors of the trial court, viz:

#### I

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT WHEN IT RENDERED A JUDGMENT NOT SUPPORTED WITH FACTS AND THE LAW ON WHICH THE JUDGMENT IS BASED.

#### II

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT WHEN IT RENDERED A JUDGMENT CONTRARY TO EVIDENCE AND LAW.<sup>[19]</sup>

#### *The Ruling of the Court*

The two errors are interrelated and will be discussed jointly.

Article VIII, Section 14 of the Constitution provides:

SECTION 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

The Court holds that the assailed decision substantially complies with the mandate of foregoing Constitutional provision. The Court finds that the lower court's decision contains a summary of appellant's evidence, findings of facts as well as an application of case law. *Viz* –

Evaluating the evidence of the plaintiff, which are parole and documentary evidences, the Court finds that it is insufficient to prove their case even if it was presented ex-parte. Firstly, the Affidavits of

Confirmation of Oral Partition, is [sic] too broad [for the court to construe] the extent of the share of the plaintiff. It did not provide the technical description of the property, supposedly the share of the plaintiff. Neither [has] the plaintiff shown that the lot area supposedly to be their share is within the technical description of the area described in TCT Nos. T-143906 and T-143908 which plaintiffs prayed to be cancelled. Secondly, it appeared from the evidence of plaintiff that defendant Susan Ganaban is one of the heirs so that in the absence of proof to the contrary, the property titled under her name is her share. Lastly, the Affidavit of Oral Partition executed by Darcy Peter Tablando Sabanal, Oscar S. Salcedo and Arnulfo S. Caylo are all hearsay since they did not testify.<sup>[20]</sup>

In the subject judgment, the trial court individually assessed the documents submitted by the appellant and found them wanting in establishing her allegation of possession and other acts of dominion over the subject property.

In *People v. Orbita*,<sup>[21]</sup> the Supreme Court held –

The purpose of Article VIII, Section 14 of the Constitution is to inform the person reading the decision, and especially the parties, of how it was reached by the court after consideration of the pertinent facts and examination of the applicable laws.<sup>[22]</sup> The losing party is entitled to know why he lost, so he may appeal to a higher court, if permitted, should he believe that the decision should be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.<sup>[23]</sup> Thus, a decision is adequate if a party desiring to appeal therefrom can assign errors against it. x x x<sup>[24]</sup>

Appellant insists that she was able to prove by preponderance of evidence her clear and unmistakable right over TCT Nos. 143906 and 143908; that the Affidavits of Confirmation of Oral Partition executed by the heirs of spouses Galo and Candida Sabanal were sufficient proof that the subject lands were assigned by the spouses Galo in her favor; that the trial court should have given the affidavits more weight especially the affidavit executed by Corazon Sabanal-Cahoy who was a direct heir of the spouses Sabanal and who also testified that she was present when the subject properties were orally partitioned. Moreover, she claims that “The absence of the technical description of the subject land in the affidavits of confirmation cannot defeat the clear and unequivocal pronouncement of the heirs of the late spouses [Sabanal] that said lots were actually partitioned to [Belinda] as early as 1966”. Appellant further contends that her claim to the subject properties is bolstered by the fact that she and her sons are in open, continuous, exclusive, adverse and notorious possession of the lands for the past forty (40) years.<sup>[25]</sup>

The Court is not swayed.

The alleged ownership of Belinda over Cadastral Lot 1293-C-4 stemmed from an oral partition in which 2/3 of the disputed lot was assigned to her. In *Maglucot-Aw v. Maglucot*,<sup>[26]</sup> the Supreme Court held thus-

On general principle, independent and in spite of the statute of frauds, courts of equity have *enforced oral partition when it has been completely or partly performed*.

Regardless of whether a parol partition or agreement to partition is valid and enforceable at law, equity will [*in*] proper cases[,] where the parol partition has actually been consummated by the taking of possession in severalty and the exercise of ownership by the parties of the respective portions set off to each, recognize and enforce such parol partition and the rights of the parties thereunder. Thus, it has been held or stated in a number of cases involving an oral partition under which the parties went into possession, exercised acts of ownership, or otherwise partly performed the partition agreement, that equity will confirm such partition and in a proper case decree title in accordance with the possession in severalty.

In numerous cases it has been held or stated that parol partition may be sustained on the ground of estoppel of the parties to assert the rights of a tenant in common as to parts of land divided by parol partition as to which possession in severalty was taken and acts of individual ownership were exercised. And a court of equity will recognize the agreement and decree it to be valid and effectual for the purpose of concluding the right of the parties as between each other to hold their respective parts in severalty.

A parol partition may also be sustained on the ground that the parties thereto have acquiesced in and ratified the partition by taking possession in severalty, exercising acts of ownership with respect thereto, or otherwise recognizing the existence of the partition.

A number of cases have specifically applied the doctrine of part performance, or have stated that a *part performance is necessary*, to take a parol partition out of the operation of the statute of frauds. It has been held that where there was a partition in fact between tenants in common, and a part performance, a court of equity would have regard to enforce such partition agreed to by the parties. [*Emphasis Ours*]

Accordingly, actual possession and exercise of dominion over definite portions of the property in accordance with an alleged partition are considered *strong proof* of an oral partition.<sup>[27]</sup>

Belinda relied mainly on the Affidavits of Confirmation of Oral Partition to prove her ownership over the property in question. As found by the trial court, the affidavits of confirmation of oral partition executed by Darcyl Sabanal, Oscar Salcedo, and Arnulfo Caylo could not be given weight on the ground that these are all hearsay. It is settled that affidavits are inadmissible for being hearsay since they are not generally prepared by the affiant but by another who uses his own language in writing the affiant's statements, which may thus be either omitted or misunderstood by the one writing them. Moreover, the adverse party is deprived of the opportunity to cross-examine the affiant. For this reason, affidavits are generally rejected unless the affiants themselves are placed on the witness stand to testify thereon.<sup>[28]</sup> Darcyl, Oscar, and Arnulfo did not testify; their affidavits are inadmissible.