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THIRD DIVISION

[G.R. No. 96644. June 17, 1994]

HEIRS OF JUAN OCLARIT, namely: FRANCISCA VDA. DE OCLARIT, SOFRONIO OCLARIT, BELACIO OCLARIT, RUFINO OCLARIT, JUANA OCLARIT DE MACALOS, assisted by her husband HILARIO MACALOS, FELISA OCLARIT DE LACRE, assisted by her husband, COSME LACRE; HEIRS OF PAULA OCLARIT DE OCANG, namely: PETRA OCANG and ALFREDO OCANG, ANGELA OCLARIT DE OCANG, assisted by her husband, CARLOS OCANG, EPIFANIA OCLARIT DE ALMODOBAL, assisted by her husband, URBANO ALMODOBAL, CRESENCIA OCLARIT DE IVARRETA, assisted by her husband, LUCRESIO IVARRETA, NARCISA OCLARIT DE CAGAS, assisted by her husband, JUAN CAGAS, and JUSTO OCLARIT, *petitioners, vs.* **COURT OF APPEALS and ZACARIAS BALASABAS,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINALITY OF THE FACTUAL FINDINGS OF THE LOWER COURTS. — It is at once apparent that petitioners assail the factual findings of both courts below. However, there is no basis for considering this case as an exception to the general rule that the factual findings of the Court of Appeals are binding on and are not reviewable by this Court. A careful review of the decisions below do not show that both courts overlooked essential facts which, if considered, would have changed the outcome of the case. Moreover, the matter of giving credence to evidence presented is best addressed by the trial judge who is in a better position than the appellate court to appreciate the weight and evidentiary value of the testimonies of witnesses who have appeared before him. In civil cases, the lower court must lean towards a party who successfully presents preponderance of evidence in his favor. It is thus too late in

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the day for petitioners to claim that the parcels of land which Oclarit had bought are "alien" or different from the parcels which private respondent had allegedly acquired from his mother both by inheritance and by purchase. This is clearly a factual issue which is beyond the ambit of this Court's jurisdiction.

2. CIVIL LAW; LAND REGISTRATION; QUIETING OF TITLE; IN CASES WHERE THERE APPEARS TO BE OVERLAPPING OF BOUNDARIES, ACTUAL SIZE OF THE PROPERTY GAINS IMPORTANCE. — The deed of sale wherein Martin Macalos conveyed to Oclarit a parcel of land did not even indicate with particularity the area of the land covered thereby. This explains why they indiscriminately pointed at boundaries which are even beyond what could have been bought by Oclarit. Although it is true that what defines a piece of land is not the area mentioned in its description but the boundaries therein laid down, in controversial cases as in this case where there appears to be an overlapping of boundaries, the actual size of the property gains importance. Thus, the lower court correctly stressed that it would have done petitioners some good had they correctly specified even in their tax declarations the areas of the land they were claiming. It is well settled that anyone who claims that he has a better right to the property, must prove both ownership and identity of the said property. An area delimited by boundaries properly identifies a parcel of land.

3. ID.; ID.; ID.; TAX DECLARATIONS IF NOT COUPLED WITH PROOF OF ACTAUL POSSESSION CANNOT BE EVIDENCE OF A CLAIM OF OWNERSHIP. — With regard to tax declarations as bases for claim of ownership, petitioners capitalize on what was obviously an *obiter* in *Ramos v. Court of Appeals* (*supra*) that no one in his right mind would be continuously paying taxes for property that is not in his actual possession. On the contrary, any person who claims ownership by virtue of tax declarations must also prove he is in actual possession of the property. Thus, proof that the property involved had been declared for taxation purposes from 1908 to 1945, did not constitute proof of possession, nor is it proof of ownership in the absence of the claimant's actual possession of said property. In the same vein, tax receipts and declarations of ownership for taxation purposes become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property.

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4. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; EFFECT OF FAILURE TO APPEAL. — Settled is the rule that a party is barred from assailing the correctness of a judgment not appealed from by him. An appellee may only make counter statement of errors to sustain the judgment on other grounds but not to adduce arguments which would otherwise modify or reverse the same, for in such case, an appeal must have been seasonably filed. There being no appeal taken by private respondent from the adverse judgment of respondent court, the decision has become final as against him and can no longer be reviewed, much less reversed, by this Court. That respondent may have been in possession of the disputed properties since 1965 of no moment. This Court is not a cadastral court before which respondent can seek confirmation of title.

APPEARANCES OF COUNSEL

Lord M. Marapao for petitioners.
Urbano Lagumay for private respondent.

D E C I S I O N

BIDIN, *J.*:

Petitioners seek the review on *certiorari* of the decision of the Court of Appeals promulgated on September 28, 1990, affirming with modification the decision of the Regional Trial Court of Bohol, Branch 2, Tagbilaran City, dismissing their complaint for quieting of title with damages and declaring the defendant (private respondent herein) the owner of the parcels of land subjects of controversy.

In 1953, the late Juan Oclarit, petitioners' predecessor-in-interest, allegedly purchased from Martin Macalos a parcel of unregistered land located in Antipolo, Garcia-Hernandez, Bohol, with no permanent landmarks or boundaries in consideration of the sum of one hundred (₱100.00) pesos. The deed of sale simply described the property as bounded on the north and east by the property of Herminigildo Baja, on the south by Mariano Gales and on the west by a brook.

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In 1956, Oclarit bought five more parcels of land located in Antipolo and Ulbujan, also in Garcia-Hernandez, Bohol, from Dalmacio Gales in consideration of the sum of six hundred (₱600.00) pesos. Parcel IV thereof is described as follows:

"A parcel of an irrigated rice and coconut lands, bounded on the NORTH, by the land of Leon Macalos; EAST, by the land of Mariano Gales; SOUTH, by the land of Pablo Gales, and on the WEST, by the land of Saturnino Gales; containing an area of 9 ares and 28 centares, more or less, without visible landmarks of the boundaries of the same, covered by Tax Declaration No. R-19915 now transferred and declared under the name of the herein VENDEE, JUAN OCLARIT, with the total assessed value of ₱30.00."

In 1975, the heirs of Oclarit filed an action for the quieting of title and damages against respondent Balasabas before the then Court of First Instance of Bohol, docketed as Civil Case No. 3103. The complaint alleged that in January 1969, private respondent entered the properties subject of the action. Failing to work on the area planted to palay, private respondent climbed the coconut trees, replaced the "J.O." markings on the trees with "F.G.", representing Felipa Gales, his mother, and caused to be recorded in the cadastral survey of the land the name of Felipa Gales as claimant against Juan Oclarit. The heirs of Oclarit considered the acts of private respondent as having cast a cloud of doubt over their title to the property and therefore deprived them of the enjoyment of the fruits of the coconut trees. Petitioners further alleged that the late Juan Oclarit, from the time of the acquisition of said properties, had exercised dominion and ownership thereon openly, peacefully, adversely and uninterruptedly. It was also claimed that the deceased planted coconut trees and other crops on the property, enjoyed their produce and paid the realty taxes on the land which was continued by his heirs after his death.

In his answer, respondent Balasabas claims to have actually and lawfully possessed the disputed parcels of land "since time immemorial." According to respondent, the first parcel of land was owned by his mother, Felipa Gales, by virtue of inheritance, and declared in her name under Tax Declaration No. D-1120;

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while the second parcel of land was acquired by him from his own mother as evidenced by a deed of absolute sale executed on March 20, 1963 and which he declared in his name under Tax Declaration No. D-1006. In addition, respondent likewise alleged possession of the parcels of land openly, peacefully, adversely and continuously without disturbance from any party until he was molested by the heirs of Oclarit. It was contended that Oclarit himself surreptitiously declared these lands for taxation purposes in his own name.

In the course of the proceedings, the trial court appointed Teotimo Borja, Deputy Provincial Assessor of Bohol, as commissioner for the purpose of determining whether the lands described in the complaint and covered by Tax Declarations Nos. D-13935 and D-13926 overlapped with any of the lands described in the defendant's affirmative and special defenses and covered by Tax Declarations Nos. D-1120 and D-1006. In 1978, the court-appointed commissioner conducted a relocation survey and an ocular inspection of the properties in controversy in the presence of the heirs of Oclarit, their counsel, respondent Balasabas, a policeman, and adjoining owners Procopio Oclarit, Galicana J. Pagaran, Maxima Macula, Felipe Macula and some disinterested persons. In his report dated May 25, 1979, the commissioner made the following findings and observations:

"When plaintiffs were asked the extent of their land under the tax declaration No. D-13935, they pointed to the undersigned that figure in Annex 'A' which is embraced from corners 1, 2, 3, 4 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 back to 1 by a red ball pen broken lines. The area of this is approximately 3,639 square meters (.3639 ha.). The area of the tax declaration No. D-13935 is .0928 ha. This 'A', which is made an integral part of this report has been traced from the file of the Bureau of Lands Office in Jagna, Bohol. The personnel in that office informed the undersigned that no Lot numbers have as yet been assigned and that the traverse is not yet computed because it will be done by IBM. This land is partly cocal (on the northeastern portion) and party riceland. There are thirty (30) coconut trees mostly of which are 40 to 50 years old;

"Defendant Zacarias Balasabas pointed the extent of his claim under the tax declaration No. D-1120 as that area in the cadastral survey.

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In other words he refer(red) to his claims as that figure in Annex 'A' embraced by corners 1, a, 2, 3, 4, b, c, d, e, 11, 12, f, 13, 14 to 1 and shaded by pencil diagonal lines and which is titled '*HRS. OF JUAN OCLARIT VS. FELIPA GALES*' in the cadastral survey. This contains an area of 1,420 square meters (.1420 ha.), more or less. The tax declaration No. D-1120 has an area of .44010 ha.;

"Plaintiffs and defendants both claimed the same parcel of land on the western portion of Annex 'A' and which is titled '*FRANCISCA MACALOS VS. ZACARIAS BALASABAS*' in the cadastral survey as that which is represented by their tax declaration Nos. D-13926 and D-1006, respectively. This parcel which is embraced by corners A, B, C, D, E, F, G, H, I, J, K to A contains an area of 3,098 square meters (.3098 ha.) more or less. The tax declaration No. D-13926 in the name of Juan Oclarit contains an area of .0204 ha. and the tax declaration No. D-1006 of defendant has an area of .8147 ha. There are approximately 200 coconut trees many of which are still non-bearing. The contour of this lot is generally hilly." (*Rollo*. p. 39)

In its decision, the lower court made the following findings: the heirs of Oclarit and Balasabas are laying claim over the same parcels of land; Dalmacio Gales, who sold to Oclarit the parcel of land covered by Tax Declaration No. 13935, was an uncle of Balasabas' mother, Felipa Gales; Martin Macalos, the vendor of the land covered by Tax Declaration No. 13926, was the cousin of Balasabas' grandmother, Guillerma Gales; the area being claimed by the heirs of Oclarit is, per commissioner's report, approximately 3,639 square meters (.3639 ha.) while Tax Declaration No. 13935 shows that it is only 928 square meters (.0928 ha.) and the area of the second parcel per commissioner's report is approximately 3,098 square meters (.3098 ha.) while that reflected in Tax Declaration No. 13926 is only 204 square meters (.0204 ha.).

From these findings, the lower court expressed its surprise as to the size of the area being claimed by the heirs of Oclarit according to the commissioner's report in comparison with the areas shown in Tax Declarations Nos. 13935 and 13926. While recognizing that areas stated in tax declarations are not "approximately exact," the lower court nonetheless considered the discrepancies between the actual areas being claimed and

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those shown in the tax declarations as "too obvious to be taken with excuse." Moreover, it doubted the credibility of petitioners for their failure to explain why the adjoining owners named in their claim are different from the adjoining owners found by the commissioner. Furthermore, if petitioners were indeed the real owners of the two parcels of land, they would have taken steps for the correction of the smaller areas stated in the tax declarations. Concluding that petitioners were claiming much bigger parcels that what their evidence can support under justifiable circumstances, the trial court thus disposed of the case as follows:

"WHEREFORE, finding a preponderance of evidence in favor of the defendant, judgment is hereby rendered:

"1. Dismissing the complaint;

"2. "Declaring the defendant as the owner of the lots covered by Tax Declarations Nos. D-1120 and D-1006 with area of .4010 hectare and .8147 hectare, respectively and ordering the plaintiffs to recognize such ownership by the defendant; and

"3. Ordering the plaintiffs to pay the defendant attorney's fee of ₱500.00 and litigation expenses of ₱400.00 and to pay the costs of the proceedings.

"SO ORDERED."

On appeal, respondent court ruled that petitioners failed to prove either legal or equitable title to the two parcels of land which are necessary in an action for quieting of title. Petitioners' claim of ownership was based principally on tax declarations which, however, are not conclusive evidence of ownership.

However, the Court of Appeals disagreed with the trial court's declaration that private respondent is the owner of the two parcels of land and such ownership should be recognized by petitioners. It considered such conclusion of the lower court as "bereft of any convincing evidence" because tax receipts, tax declarations and survey plans are not conclusive and indisputable bases of ownership. Accordingly, it disposed of the appeal in the following tenor:

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"WHEREFORE, in view of the foregoing, the decision of the Court *a quo* dismissing the plaintiffs' complaint is hereby AFFIRMED. The portions thereof declaring the defendant as the owner of the lots covered by Tax Declarations Nos. D-1120 and D-1006, respectively, and ordering the plaintiffs to pay the defendant attorney's fee of ₱500.00, litigation expenses of ₱400.00 and costs of the proceedings are hereby REVERSED and SET ASIDE. Without pronouncement as to cost.

"SO ORDERED." (*Rollo*, p. 40)

Their motion for reconsideration of said decision having been denied, the heirs of Oclarit instituted the instant petition. Private respondent did not appeal the above disposition.

The petition is moored primarily on the following contentions: (a) the filing of Civil Case No. 3103 was the only legal remedy available to petitioners against the "malicious and unwarranted actuations" of private respondent; (b) Oclarit's undisturbed claim of ownership of the two parcels of land which he acquired in 1953 and 1956, had spanned more than ten years until private respondent disturbed it in 1969; (c) the two parcels of land mentioned by private respondent in his answer are "foreign and alien" to the two parcels which Oclarit bought from Dalmacio Gales and Martin Macalos and because these vendors had been in possession of the property "from time immemorial", the "waters of prescription have set in"; (d) the Court of Appeals failed to appreciate the real worth of Exhibits "N" to "P" otherwise it would have noted that petitioners' "clear ownership over said two (2) parcels of land in litigation as the description found therein jibed materially" with the averments in the complaint, and (e) the lower court, in a decision in another case, cited *Ramos v. Court of Appeals* (112 SCRA 543) holding that tax receipts are strong evidence of possession as no one in his right mind would pay realty taxes year after year for property not in his actual possession.

From the above submissions, it is at once apparent that petitioners assail the factual findings of both courts below. However, there is no basis for considering this case as an exception to the general rule that the factual findings of the

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Court of Appeals are binding on and are not reviewable by this Court (*Oporto v. Court of Appeals*, 208 SCRA 878 [1992]). A careful review of the decisions below do not show that both courts overlooked essential facts which, if considered, would have changed the outcome of the case. Moreover, the matter of giving credence to evidence presented is best addressed by the trial judge who is in a better position than the appellate court to appreciate the weight and evidentiary value of the testimonies of witnesses who have appeared before him (*Sapuan v. Court of Appeals*, 214 SCRA 701 [1992]). In civil cases, the lower court must lean towards a party who successfully presents preponderance of evidence in his favor.

It is thus too late in the day for petitioners to claim that the parcels of land which Oclarit had bought are "alien" or different from the parcels which private respondent had allegedly acquired from his mother both by inheritance and by purchase. This is clearly a factual issue which is beyond the ambit of this Court's jurisdiction.

It was precisely for the purpose of pointing out with particularity the parcels of land involved that the lower court appointed a commissioner whose findings may be adopted *in toto* by the trial court (See: *Apurillo v. Garciano*, 28 SCRA 1054). Had the petitioners been in possession of solid evidence that the parcels of land they are claiming are "alien" or "foreign" to those declared by private respondent as his, they should have questioned the commissioner's report which was based on the relocation survey and ocular inspection which were conducted in their presence. Moreover, petitioners' claim that their property is different from those of private respondent's is indeed antithetical to their filing of the complaint for quieting of title — there would not have been any basis for claiming that private respondent cast a cloud of doubt to their title over their two parcels of land.

More, the deed of sale wherein Martin Macalos conveyed to Oclarit a parcel of land did not even indicate with particularity the area of the land covered thereby. This explains why they indiscriminately pointed at boundaries which are even beyond what could have been bought by Oclarit. Although it is true

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that what defines a piece of land is not the area mentioned in its description but the boundaries therein laid down (*Vda. de Tan v. Intermediate Appellate Court*, 213 SCRA 95 [1992]), in controversial cases as in this case where there appears to be an overlapping of boundaries, the actual size of the property gains importance. Thus, the lower court correctly stressed that it would have done petitioners some good had they correctly specified even in their tax declarations the areas of the land they were claiming. It is well settled that anyone who claims that he has a better right to the property, must prove both ownership and identity of the said property (*Beo v. Court of Appeals*, 200 SCRA 574 [1991], citing *Flores v. Intermediate Appellate Court*, 178 SCRA 717 [1989]). An area delimited by boundaries properly identifies a parcel of land.

With regard to tax declarations as bases for claim of ownership, petitioners capitalize on what was obviously an *obiter* in *Ramos v. Court of Appeals (supra)* that no one in his right mind would be continuously paying taxes for property that is not in his actual possession. On the contrary, any person who claims ownership by virtue of tax declarations must also prove he is in actual possession of the property. Thus, proof that the property involved had been declared for taxation purposes from 1908 to 1945, did not constitute proof of possession, nor is it proof of ownership in the absence of the claimant's actual possession of said property (*De Luna v. Court of Appeals*, 212 SCRA 276 [1992]).

In the same vein, tax receipts and declarations of ownership for taxation purposes become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property (*Tabuena v. Court of Appeals*, 196 SCRA 650 [1991]; *Director of Lands v. Intermediate Appellate Court*, 209 SCRA 214 [1992]).

As earlier stated, private respondent did not appeal from the adverse decision of the appellate court. Yet, respondent ventures to implore this Court to nullify and reverse the decretal portion of the decision subject of this petition and to declare him the owner of the lots covered by his Tax Declaration Nos. D-1120 and D-1006. This cannot be legally done.

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Settled is the rule that a party is barred from assailing the correctness of a judgment not appealed from by him. An appellee may only make counter statement of errors to sustain the judgment on other grounds but not to adduce arguments which would otherwise modify or reverse the same, for in such case, an appeal must have been seasonably filed (*Itogon-Suyoc Mines v. NLRC*, 117 SCRA 523 [1982] and cases cited therein.) There being no appeal taken by private respondent from the adverse judgment of respondent court, the decision has become final as against him and can no longer be reviewed, much less reversed, by this Court. That respondent may have been in possession of the disputed properties since 1965 is of no moment. This Court is not a cadastral court before which respondent can seek confirmation of title.

WHEREFORE, the petition is hereby *DENIED* for lack of merit.

SO ORDERED.

Feliciano (Chairman), Romero, Melo, and *Vitug, JJ*., concur.

SECOND DIVISION

[G.R. Nos. 100376-77. June 17, 1994]

DEVELOPMENT BANK OF THE PHILIPPINES, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION, GODOFREDO MORILLO, JR., SUNDAY BACEA, ALFREDO COS and ROGELIO VILLANUEVA,** *respondents*.

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR CODE; EMPLOYMENT; JOB CONTRACTING; PRINCIPAL AND THE