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SECOND DIVISION

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

SPOUSES CERILO and FRANCISCA PASNGADAN, *petitioners, vs.* **SPOUSES VICTOR and SANGSANGIYO NGAMILOT,** *respondents.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; UNDER RULE 45 OF THE RULES OF COURT, ONLY QUESTIONS OF LAW MAY BE RAISED IN THE SUPREME COURT; EXCEPTION.— 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.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioners.
Antonio F. Angluben for respondents.

R E S O L U T I O N

CALLEJO, SR., *J.*:

On December 28, 1983, the spouses Victor Ngamilot and Sangsangiyo 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.

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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.[1] 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.[2] 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.[3]

Meanwhile, Victor was employed as a miner from 1963 to 1970 by Antamok and, thereafter, by the Lepanto Mining Company. His wife Sangsangiyo 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.[4] The tenant planted *palay*, corn and some other vegetables.[5] 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.[6] However, in 1978, Cerilo Pasngadan again entered the ricefield covered by T.D. No. 1050 and made excavations therein.[7] When Bartolome

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[1] Exhibit "E", Records, p. 120.

[2] Exhibit "D", *Id.* at 119.

[3] TSN, 3 June 1985, p. 54.

[4] *Id.* at 3.

[5] *Id.*

[6] *Id.* at 28-29.

[7] *Id.* at 5.

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asked why he was excavating the property, Cerilo replied that he owned it.[8] By then, Cerilo had been able to cultivate 30 square meters, more or less.[9] He had also entered a portion of the riceland and made improvements thereon. Bartolome relayed the matter to Sangsangiyo 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 Ligligen 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.[10] 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[11] under the name of Victor Ngamilot beginning 1980. In 1984, Victor paid the realty taxes due on the two lots.[12]

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.[13] T.D. No. 1815 was cancelled by T.D. No. A7204 under the same name in 1951.[14] In 1974, T.D. No. A7204 was cancelled

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[8] TSN, 3 June 1985, p. 4.

[9] *Id.* at 29.

[10] Records, pp. 115-116.

[11] Exhibit "E", Records, p. 120.

[12] Exhibit "F", *Id.* at 121.

[13] Exhibit "8", Records, p. 262.

[14] *Ibid.*

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by T.D. No. 23306.[15] In 1980, T.D. No. 23306 was cancelled by T.D. No. 24220,[16] in 1980, which, in turn, was cancelled by T.D. No. 24081[17] 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.[18] 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,[19] thus, was cancelled in 1974 by T.D. No. 5101 which, in turn, was cancelled by T.D. No. 16808 in 1985.[20] 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;[21] and on the east, by a mountain.[22]

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[23] showed the disputed property between the ricefield on

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[15] Exhibit "7", *Id*. at 261.

[16] Exhibit "6", *Id*. at 260.

[17] Exhibit "5", *Id*. at 259.

[18] TSN, 14 January 1985, p. 182.

[19] Exhibit "14", Records, p. 265.

[20] Exhibit "13", *Id*. at 264.

[21] TSN, 24 September 1986, p. 93.

[22] *Ibid*.

[23] Records, p. 252.

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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[24] and saw Cerilo working on that portion of the ricefield.[25]

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

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[24] TSN, 3 November 1986, pp. 104-105.

[25] Exhibit "4-A", Records, p. 258.

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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.[26]

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 prove the identity of the property they claim, as well as their right of possession over the said property. They maintain that the property claimed by the respondents is different from Parcels "A" and "B". They posit that the evidence on record shows that they, not the respondents, are the owners of the disputed property and entitled to the possession thereof. The petitioners aver that the CA erred in relying on the testimony of Bartolome Mocnangan because the metes and bounds of Parcel "A" owned by him is different from that declared in T.D. No. 1050.

We reject the contention of the petitioners. Prescinding from the testimony of Mocnangan, the parties had agreed on the metes and bounds of the disputed property. The decisive issues

[26] *Rollo*, p. 14.

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are whether the disputed property is a portion of the property, Parcel "A", of the respondents or of the petitioners and whether the petitioner Cerilo Pasngadan intruded into and made improvements thereon. There is, likewise, no dispute that the case was triggered by the incursion into the disputed property by petitioner Cerilo Pasngadan in 1978 which Mocnangan reported to the respondents.

The Court agrees with the ruling of the CA that the respondents adduced proof of their ownership over Parcel "A", and that the evidence of the respondents on their claim over the property is dubious:

> Defendants' alleged ownership of Parcel "A", however, is doubtful at best. It is worthy of note that as plaintiffs' tenant was working on the area assigned to him to cultivate and work on, defendants did not question his presence or prevent him from working on the said property. Moreover, Berting Mocnangan's testimony that defendants widened their property by working and planting on the area that he was working on was not refuted or controverted by defendants. Clearly, defendants knew that Mocnangan was working well within the property of plaintiffs. It would be contrary to human experience for them to allow a person to intrude into their own property without them putting up some resistance to him from doing so.
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> To prove possession of the foregoing property, plaintiffs adduced into evidence Tax Declaration No. 1050, issued in the name of plaintiff Victor Ngamilot in 1948, indicating therein the following boundaries: North — creek; South — Cadwising; East — mountain; and West — Modawan.
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> Relative thereto, defendants offered Tax Declaration Nos. 24081, 24220, 23306, and A7204, issued in 1987, 1980, 1974 and 1951, all in the name of Modawan. Specified there are the following boundaries, North — Mariano; South — Badicao; East — Mariano; and West — Ampil.
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> It is noteworthy that the plaintiffs' tax declaration is more compatible with the illustration prepared by Nikolas Kimakim, the Municipal Assessor who surveyed plaintiffs' property under Tax Declaration No. 53 in 1979, which was corroborated by the illustration of Luis Badecao. The said illustration shows the corresponding boundaries or adjoining lots of the property in dispute.

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Moreover, the sketch made by the Clerk of Court during the ocular inspection conducted on May 17, 1990, likewise, corroborates the boundaries of plaintiffs' property.

The fact that the boundaries indicated in defendants' Tax Declaration Nos. A7204, 23306, 24220, and 24081 do not tally with the boundaries of Parcel "A", clearly reveals that the said documents do not refer to Parcel "A" or the property in dispute, but to another or different property.

The foregoing bolsters the testimony of Dompalec Modawan, defendant Francisca Pasngadan's sister, who testified that the latter did not inherit any property from their father Modawan.[27]

On the controversy over the disputed portion of Parcel "B", the Court agrees with the following ruling of the CA:

Anent the second property (Parcel "B") subject of the dispute, during the ocular inspection conducted on May 17, 1990, plaintiffs claimed that the whole area surrounding the said property is theirs. On the other hand, defendants asserted that the following are the said property's boundaries — on the North — public land; South — Caboy; East — Bilat; and West — public land.

To prove that they are the rightful possessors of the foregoing property, defendants adduced in evidence Tax Declaration Nos. 16808 and 5101, which indicated the following boundaries: North — Tigwa Paking & Alfredo Cagayan; South — John Wagtingan; East — Provincial Road; and West — Victor Ngamilot and Badecao Guslab.

Again, we note the testimony and illustration of Nicolas Kimakim, which shows that the north side boundary of plaintiffs' property is the property of defendant Francisca Pasngadan.

The foregoing was corroborated by another illustration and the following testimony of Luis Badecao:

"Q: Now, how about this upper portion which is one of the subjects of this case, who owns this parcel of land?

A: It was formerly a mountain, now it was operated by Pasngadan, that was formerly a pastureland, now it was operated by Pasngadan and now it is planted with fruit trees, camotes and bananas.

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[27] *Rollo*, pp. 62-63.

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Q: You are referring to the upper portion?
A: I am referring to this upper portion.

ATTY. DADAS:
Witness pointing to Exhibit '3-A'."

The foregoing testimonies were further bolstered by a certified copy of Tax Declaration No. 53, submitted by the Municipal Assessor, which indicated the following boundaries: North — Francisca Pasngadan; South — Public land/Creek; East — Wagtingan; and West — Ngamilot Mariano.

An examination of the sketch made during the ocular inspection conducted on May 17, 1990 reveals that defendants' property actually lies on the northern boundary of plaintiffs' property; and that the land in dispute lies on the southern portion of plaintiffs' property, which is covered by Tax Declaration No. 53.

Clearly, the evidence defendants adduced referred to a property other than the one in dispute. Even during the testimonies of the abovesaid witnesses (who are defendants' witnesses), no reference was made relative to the property in dispute as belonging to the defendants; instead, the said witnesses pointed to a different parcel of land which they knew to be defendants'.

On the basis of all of the foregoing, plaintiffs' Tax Declaration Nos. 1050 and 53, coupled with the Municipal Treasurer's Certification of tax realty payments, are good indications of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. The same documents constitute proof that the plaintiffs have a better claim of title and possession over the property.[28]

IN LIGHT OF ALL THE FOREGOING, the petition is *DENIED* for lack of merit.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Tinga, and *Chico-Nazario, JJ.,* concur.

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[28] *Rollo,* pp. 63-66.