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SECOND DIVISION

[G.R. No. 216587; August 4, 2021]

SPOUSES EUGENIO PONCE and EMILIANA NEROSA, *Petitioners*, *v.* **JESUS ALDANESE,** *Respondent*.

D E C I S I O N

HERNANDO, *J.*:

Petitioners Spouses Eugenio Ponce and Emiliana Nerosa (Spouses Ponce) assail the September 19, 2014 Decision[1] and January 20, 2015 Resolution[2] of the Court of Appeals (CA/appellate court) in C.A.-G.R. CV No. 02878 which affirmed the December 15, 2008 Decision[3] of the Regional Trial Court (RTC), Branch 26 of Argao, Cebu in Civil Case No. AV-1023, a complaint for recovery of possession and damages with receivership.

The Antecedent Facts:

Under dispute is a parcel of unregistered land[4] known as Lot No. 6890, an unregistered land which consists of 3.9030 hectares that is located in Dugo-an, Sibonga, Cebu.

In 1973, respondent Jesus Aldanese (Jesus) inherited Lot No. 6890 from his father, Teodoro Aldanese, Sr. He diligently paid its real property taxes from that time on under Tax Declaration No. (TD) 13003 which is in his name.[5] TD 13003 was subsequently cancelled and TD 13163-A[6] was issued by the Municipal Assessor

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[1] *Rollo*, pp. 46-56; Penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Gabriel T. Ingles and Renato C. Francisco.

[2] Id. at 57-60.

[3] Id. at 61-69; penned by Judge Maximo A. Perez.

[4] Records, p. 17.

[5] CA *rollo*, p. 56.

[6] Records, p. 11.

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of Sibonga, still in Jesus' name, as the owner and possessor thereof with the following boundaries:

North: River	*South*: Lot No. 7486
East: River	*West*: Boundary of Dumanjug, Cebu[7]

Jesus stayed in the city because of his business. In August 1996, he was surprised when he discovered that the Spouses Ponce encroached upon the entire portion of his lot. He immediately demanded that they vacate his land and to return it to him. However, the Spouses Ponce refused to heed Jesus' demand on the ground that Lot No. 6890 is part of the land that they bought from his brother Teodoro Aldanese, Jr. (Teodoro, Jr.).[8]

Jesus then asked his brother Teodoro, Jr., about the purported sale of his land. However, Teodoro, Jr., denied selling his brother's land to the Ponces. He explained to Jesus that what he sold to the Spouses Ponce was a parcel of land that he owned known as Lot No. 11203 located in Masa, Dumanjug, Cebu. Lot No. 11203 is adjacent to Lot No. 6890 of Jesus. Teodoro, Jr., then showed Jesus a photocopy of the Deed of Absolute Sale[9] dated March 13, 1976.[10]

Thereafter, Jesus and the spouses Ponce met at the barangay for conciliation. The latter nonetheless refused to vacate his land. During the barangay proceedings, the Spouses Ponce admitted encroaching on Lot No. 6890 because Lot No. 11203 which they bought from Teodoro, Jr., in Masa, Dumanjug, Cebu contained less than the area stated in the Deed of Absolute Sale. The Ponces also remained firm in possessing the subject land.[11] As a result, Jesus filed a Complaint[12] for recovery of possession and damages with receivership against them before the RTC.

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[7] *Rollo*, p. 47.

[8] Id.

[9] Records, p. 28.

[10] *Rollo*, p. 47.

[11] Id. at 47-48.

[12] Records, pp. 1-10.

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During trial, Jesus testified that he owned Lot No. 6890 and that it was not part of the land sold by his brother Teodoro, Jr., to the Spouses Ponce.[13] Teodoro corroborated his brother's testimony. It was only Lot No. 11203, the land that he owned and inherited which was situated in Masa, Dumanjug, Cebu, that was sold to the Spouses Ponce in the Deed of Absolute Sale.[14]

On the other hand, the Spouses Ponce maintained that the subject land was part of the entire 10 hectares that they bought from Teodoro, Jr. In fact, a survey of the land was conducted after the sale showing that about seven hectares of the sold property is situated in Masa, Dumanjug, Cebu while the remaining three hectares pertained to Lot No. 6890 located in Sibonga, Cebu. The Ponces further asserted that Teodoro, Jr., as the owner, has the right to sell the subject land pursuant to the Deed of Confirmation of Oral Partition[15] dated April 3, 1975 which was executed by the Aldanese siblings.

Ruling of the Regional Trial Court:

In its December 15, 2008 Decision,[16] the trial court held that Jesus sufficiently established that he owned Lot No. 6890 so as to be entitled to its possession. The dispositive portion of the Decision reads:

> WHEREFORE, foregoing premises considered, decision is hereby rendered in favor of the plaintiff Jesus K. Aldanese and against defendants Spouses Eugenio Ponce and Emiliana Nerosa, as follows:
>
> 1. Declaring plaintiff as absolute owner and possessor of Lot No. 6890; and
>
> 2. Ordering the defendants spouses to pay the plaintiff THIRTY THOUSAND (₱30,000.00) PESOS as attorney's fees.
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> IT IS SO DECIDED.[17]

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[13] *Rollo*, pp. 47-48.

[14] Id.

[15] Records, pp. 30-31.

[16] *Rollo*, pp. 61-69.

[17] Id. at 68-69.

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The Spouses Ponce appealed[18] before the CA on the ground that the complaint should have been dismissed on the ground of prescription, and that Jesus failed to sufficiently prove his ownership over the subject land to be entitled to its possession.[19]

Ruling of the Court of Appeals:

The CA, in its September 19, 2014 Decision,[20] sustained the findings of the RTC. It held that prescription has not yet set in since the complaint was filed within the 30-year prescriptive period for real actions over immovable properties. It also held that the land sold to the Ponces does not include Lot No. 6890 since it was specifically stated in the Deed of Absolute Sale that it only covers the land in Masa, Dumanjug, Cebu. Lastly, Jesus sufficiently proved his ownership over the subject land as shown by the tax declaration in his name.[21]

The *fallo* of the appellate court's Decision reads:

> IN LIGHT OF ALL THE FOREGOING, the instant appeal is DISMISSED. The Decision dated December 15, 2008 of the RTC, Branch 26, Argao, Cebu in Civil Case No. AV-1023, is AFFIRMED.
>
> For a copy of this Decision intended for the counsel of defendants-appellants spouses Ponce, the Division Clerk of Court is ordered to send it to their new counsel of record, Siu Riñen & Associates.
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> SO ORDERED.[22]

The Spouses Ponce filed a Motion for Reconsideration[23] but the CA denied it in its Resolution[24] dated January 20, 2015.

Hence, this Petition for Review on *Certiorari*.[25]

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[18] Records, p. 227.

[19] CA *rollo*, p. 57.

[20] *Rollo*, pp. 46-56.

[21] Id.

[22] Id. at 55-56.

[23] CA *rollo*, pp. 112-130.

[24] *Rollo*, pp. 57-60.

[25] Id. at 10-45.

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Issues

The issues in this case are: (1) whether Jesus is the absolute owner of Lot No. 6890 to be entitled of possession thereof; and (2) whether there is basis for the award of attorney's fees to Jesus.

Our Ruling

The Ponce couple insist that they own and have the right to possess Lot No. 6890 pursuant to the Deed of Absolute Sale which they entered into with Teodoro, Jr. Assuming the land was not included therein, they are still entitled to the land as possessors in good faith since 1976 or for more than 20 years.

They further assert that the tax declarations in the name of Jesus are not sufficient proof of his ownership, much less his possession, of the land, consistent with *Marcelo v. Silverio*[26] *(Silverio)*. Lastly, they claim that the award of attorney's fees in favor of Jesus has no basis.

The petition is bereft of merit.

Prefatorily, the Court has repeatedly emphasized that our jurisdiction under Rule 45 of the Rules of Court[27] is limited only to errors of law as we are not a trier of facts.[28] It is not our function to analyze or weigh all over again evidence already considered in the proceedings below.[29]

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[26] 709 Phil. 662 (2013).

[27] Rule 45, Section 1 of the 1997 Rules of Civil Procedure states:
SECTION 1. Filing of Petition with Supreme Court. — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

[28] *Gatan v. Vinarao*, 820 Phil. 257, 265 (2017).

[29] *Miro v. Vda. de Erederos*, 721 Phil. 772, 785-787 (2013).

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In *DST Movers Corporation v. People's General Insurance Corporation*,[30] citing *Cheesman v. Intermediate Appellate Court*,[31] the Court distinguished a question of law from a question of fact in this wise:

> As distinguished from a question of law — which exists "when the doubt or difference arises as to what the law is on a certain state of facts" — "there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts"; or when the "query necessarily invites calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation."[32]

The issues raised by the Spouses Ponce in the instant petition have already been squarely and fully passed upon by the RTC and the CA. The questions on whether Jesus is the absolute owner of Lot No. 6890 as to be entitled to its possession, and whether the Ponces are possessors in good faith and validly acquired ownership thereto, and whether the award of attorney's fees is proper, are all factual in nature. As such, in order to answer these questions, the Court will have to re-evaluate the evidence presented by the parties which is beyond the ambit of our jurisdiction under Rule 45 of the Rules of Court.[33]

In a petition for review under Rule 45, the Court is generally limited to reviewing only errors of law. The exceptions are: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial

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[30] 778 Phil. 235 (2016).

[31] 271 Phil. 89 (1991).

[32] *DST Movers Corporation v. People's General Insurance Corporation*, supra at 244.

[33] *Maxwell Heavy Equipment Corporation v. Yu*, 653 Phil. 338, 343 (2010).

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court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[34] Unfortunately, the Ponces failed to prove that the instant petition falls under any of the above-mentioned exceptions for it to be given due course.

Moreover, the Court finds no sufficient basis to depart from the factual findings of the RTC as affirmed by the CA. It is settled that the findings of the trial court are entitled to great weight and respect, and are deemed final and conclusive on this Court especially when supported by the evidence on record.[35] Thus, We will not re-assess the evidence adduced by the parties if the findings of both the RTC and the CA completely coincide.[36]

There is preponderant evidence on record to support the conclusion of both the appellate court and the trial court that Jesus, being the lawful owner of the subject property, is entitled to the possession of Lot No. 6890.

In civil cases, the burden of proof rests upon the plaintiff who must establish their case by preponderance of evidence. Preponderance of evidence is the evidence that is of greater weight, or more convincing, than the evidence offered in opposition to it. It is proof that leads the trier of facts to find that the existence of the contested fact is more probable than its non-existence.[37] Once the plaintiff makes out a *prima facie* case in his favor in the course of the trial, however, the duty or the burden of evidence shifts to the defendant to controvert plaintiff's *prima facie* case, otherwise, a verdict must be returned in favor of plaintiff.

In the case at bench, Lot No. 6890 remained untitled as evidenced by a Certification[38] dated October 28, 1997 issued by

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[34] *Carbonell v. Carbonell-Mendes*, 762 Phil. 529, 537 (2015).

[35] *Dimaranan v. Heirs of Spouses Arayata*, 631 Phil. 100, 112 (2010).

[36] *Bank of the Philippine Islands v. Leobrera*, 461 Phil. 461, 469 (2003).

[37] *FEBTC v. Chante*, 719 Phil. 221, 234 (2013).

[38] Records, p. 17.

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the Department of Environment and Natural Resources-Land Management Sector of Argao, Cebu. To prove his ownership over the lot, Jesus presented Tax Declaration No. 13163-A in his name. He likewise presented as evidence two Certificates[39] dated November 7, 1997 and November 11, 1997 issued by the Office of the Municipal Treasurer of Sibonga, Cebu which state that he is the declared owner of the subject land and that he has been paying realty taxes thereon as early as 1980 as owner of the property.

Indeed, while the tax declaration is not conclusive proof of ownership of Jesus over the subject land, it is an indication however that he possesses the property in the concept of an owner for nobody in his or her right mind would be paying taxes for a property that is not in his or her actual or constructive possession.[40] As stressed all too well in *Heirs of Santiago v. Heirs of Santiago*:[41]

> Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia 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 constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.[42]

The Spouses Ponce's contention that *Silverio*[43] should have been applied in this case is misplaced as it is not similarly situated in the instant case. In *Silverio*, an unlawful detainer case, the Court noted that the tax declaration in the name of respondent Ricardo

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[39] Id. at 153.

[40] *Heirs of Alido v. Campano*, G.R. No. 226065, July 29, 2019, citing *Heirs of Santiago v. Heirs of Santiago*, 452 Phil. 238, 248 (2003).

[41] Id.

[42] 452 Phil. 238, 248 (2003).

[43] Supra note 26.

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Marcelo which covered the disputed land was issued in 2005, a year after the complaint was filed.

Aside from the fairly issued tax declaration, respondents therein did not adduce other evidence that would have shown that they have been consistently paying taxes on the disputed land. Thus, the Court held that they have not been in open, continuous and exclusive possession of the disputed land by themselves or through a successor-in-interest since January 3, 1968.

In this case, there is sufficient evidence indicating that Jesus has been diligently paying the real property tax of the subject land as early as 1980, unlike in *Silverio*. Further, he was recognized as the owner of the land as evidenced by the Municipal Treasurer's Certificate[44] dated November 7, 1997. Teodoro, Jr., his brother, corroborated and bolstered his claim that Jesus owned the subject land by way of inheritance from their father, Teodoro Aldanese.

Interestingly, the Ponces failed to present any proof of ownership such as payment of real property taxes or a certificate of title in their names over Lot No. 6890. True, the Spouses Ponce presented TD 22-006688 to support their claim over the land. However, it did not state the lot number of the land for which it was issued. Moreover, a careful perusal of the declaration reveals that the land for which it was issued is located in Masa, Dumanjug, Cebu and has different boundaries compared to Lot No. 6890.

The Court likewise disagrees with the contention of the Ponces that Lot No. 6890 is included in the land sold to them by Teodoro, Jr., under the Deed of Absolute Sale[45] dated March 13, 1976, and that they are possessors in good faith.

For facility of reference, the pertinent portion of the Deed of Absolute Sale is reproduced hereunder:

KNOW ALL MEN BY THESE PRESENTS:

That I, TEODORO ALDANESE, JR., of legal age, Filipino, married to Virginia Causin and with residence and postal address at Poblacion, Sibonga, Cebu, Philippines, that for and in consideration of the sum

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[44] Records, p. 153.

[45] Id. at 28.

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of TWENTY-EIGHT THOUSAND PESOS (₱28,000.00) Philippine Currency, to me in hand paid by EUGENIO PONCE and EMILIANA NEROSA, spouses, of legal age, Filipinos and with residence and postal address at Poblacion, Sibonga, Cebu, do by these presents hereby Cede, Sell, Transfer and Convey by way of Absolute Sale, unto the said Eugenio Ponce and Emiliana Nerosa, their heirs, assigns and successors, that parcel of land, together with all the existing improvements thereon and described as follows:

> **"A parcel of land situated at Masa, Dumanjug, Cebu, bounded on the North by Heirs of Teodoro Aldanese; East by River; West by Placido Becinan, Demetrio Ricamora & Hrs. of Teodoro Aldanese and South by Roberto Torquido & Fidel Arnaiz, w/c boundaries are visible by PS monuments, w/an area of 10.1080 sq. meters more or less, assessed at ₱6,570.00, w/50 coco producing trees, declared in the name of Teodoro Aldanese, Jr. and covered by Tax Declaration No. 08765 of Cebu."**[46] (Emphasis supplied.)

As correctly found by the RTC and the CA, the Deed of Absolute Sale made no mention of Lot No. 6890, the subject land, which is located in Sibonga, Cebu. Neither does the Deed of Confirmation of Oral Partition prove that Lot No. 6890 is included in the purchased land. What is clearly apparent from the two deeds is that the land sold to the Ponces is situated in Masa, Dumanjug, Cebu, surrounded by different boundaries, and covered by Tax Declaration No. 08765. On the contrary, Lot No. 6890 is located in Sibonga, Cebu, with different boundaries and under a different tax declaration.

The Court also notes that during trial, Teodoro, Jr., categorically testified that the land covered by the Deed of Absolute Sale did not include Lot No. 6890. In fact, he toured around the Ponces on the land prior to the sale. During the tour, he identified the cemented muniments which served as markers of the land's boundaries. Interestingly, the Spouses Ponce admitted that the whole parcel of land that they purchased from Teodoro, Jr., is in Masa, Dumanjug, Cebu. It was only during cross-examination that he claimed Lot No. 6890 to be part of the land sold to them.

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[46] Id.

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Thus, in the absence of competent evidence showing that Lot No. 6890 is covered by the Deed of Absolute Sale, the Ponces have no right to possess the property, much less in the concept of an owner. Moreover, they cannot be deemed possessors in good faith since they were aware that the subject land is not part of the land that Teodoro, Jr., sold to them.

Besides, assuming that Teodoro, Jr., sold Lot No. 6890 to the Ponces, the sale would be invalid as it was owned by Jesus. We have repeatedly stressed that "no one can give what one does not have."[47] "A seller can only sell what he or she owns, or that which he or she does not own but has authority to transfer, and a buyer can only acquire what the seller can legally transfer."[48]

Anent the award of attorney's fees, it has been fully passed upon by the RTC and the CA. We find its grant to be in order since Jesus was left with no other option but to file the RTC complaint against the Spouses Ponce.

WHEREFORE, the Petition is **DENIED**. The September 19, 2014 Decision, and January 20, 2015 Resolution of the Court of Appeals in C.A. – G.R. CV No. 02878 are hereby **AFFIRMED *in toto***. Costs on petitioners.

SO ORDERED.

Perlas-Bernabe, S.A.J. (Chairperson), Inting, Gaerlan, and *Rosario,*[*] *JJ.*, concur.

APPEARANCES OF COUNSEL

Siu Riñen & Associates for petitioner.
Gica Del Socorro Espinoza Villarmia Fernandez and *Tan* for respondent.

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[47] *Heirs of Lopez v. Development Bank of the Philippines*, 747 Phil. 427, 436 (2014).

[48] Id. at 437.

[*] Designated as additional Member per Special Order No. 2835 dated July 15, 2021.