Supreme Court E-Library

THIRD DIVISION

[G.R. No. 103949. June 17, 1999]

THE DIRECTOR OF LANDS, *petitioner, vs.* **COURT OF APPEALS, MONICO RIVERA and ESTRELLA NOTA,** *respondents.*

SYNOPSIS

Private respondents Spouses Monico and Estrella filed an application for confirmation of imperfect or incomplete title of Lot No. 10704 situated in Oas, Albay. The lot was originally owned by Monico's father, Eliseo, who planted corn and coconut on the land, and possessed and occupied the same in concept of owner since 1926. Respondent Spouses presented as evidence, among others, the deed entitled "Escritura de Venta Real y Absoluta" dated January 7, 1928 whereby the land was transferred from Eliseo to Spouses Ignacio Almazar and Gregoria Rivera, Eliseo's sister; Tax Declaration No. 18333 in the name of Gregoria Rivera, notarized in December 1927; the deed of sale between Gregoria and Estrella Nota married to Monico dated May 22, 1971; and a certification from the Municipal Treasurer of Oas declaring that taxes on the lot were paid as early as 1949 by the declared owner. The trial court ruled in favor of private respondents and held that the claimant and his predecessor-in-interest have "satisfactorily possessed and occupied the land in the concept of owner, openly, continuously, adversely, notoriously and exclusively since 1926, and ordered its registration and confirmation in respondents spouses' names. The Court of Appeals, on appeal by the Director of Lands, affirmed the judgment of the trial court. His motion for reconsideration was denied, hence, this recourse assailing the findings of the trial and appellate courts.

The question of whether claimants complied with the requisite possession under the law is a question of fact which is generally binding upon this Court.

Supreme Court E-Library

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; FINDINGS OF FACT OF TRIAL COURT, GENERALLY BINDING ON THIS COURT.**— The question whether spouses Monico Rivera and Estrella Nota were in open, continuous, exclusive and notorious possession of ownership under a *bona fide* claim of ownership for at least thirty years prior to 1973 is a question of fact which was resolved affirmatively by the trial court and the Court of Appeals. Such factual finding is generally binding upon this court which should limit itself to questions of law in an appeal by petition for review on *certiorari* under Rule 45. There is a question of law where there is a doubt raised concerning the correct application of law and jurisprudence on the matter.

2. **ID.; ID.; TAX DECLARATION; THOUGH NOT CONCLUSIVE EVIDENCE OF OWNERSHIP IT IS PROOF THAT HOLDER HAS CLAIM OF TITLE OVER PROPERTY.**— "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 at least 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."

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

D E C I S I O N

GONZAGA-REYES, *J.*:

This petition for review under Rule 45 of the Rules of Court seeks a reversal of the decision of the Court of Appeals in C.

Supreme Court E-Library

A. G. R. No. CV No. 30607 which affirmed the decision of the Regional Trial Court, Branch 12, Ligao, Albay, in Cadastral Case No. N-11-LV, LRC Rec. No. N-554 involving Lot No. 10704, Cadastral Survey of Oas, Albay.

Cadastral Case No. N-11-LV is a cadastral proceeding for the Oas Cadastre filed by the petitioner Director of Lands before the Regional Trial Court, Ligao, Albay. Lot No. 10704 contains an area of 68,179 square meters, and is partly cocal and corn land, situated at Cagmanaba, Oas, Albay bounded on the North, South and West by Burias Pass and on the East by Lot 10976.

When the case was called for initial hearing, nobody offered any opposition; whereupon an order of general default against the whole world was issued. Claimant was allowed to present his evidence. The court held:

"Lot 10704 is one of the uncontested lots. It is a parcel of land party cocal and corn land situated at Cagmanaba, Oas, Albay containing an area of 68,179 square meters bounded on the North, South and West by Burias Pass and on the East by Lot 10976. Originally the land was owned by Eliseo Rivera who began possessing and occupying the same in the concept of owner openly, continuously, adversely, notoriously and exclusively since 1926. He planted corn in the vacant spaces and some coconut seedlings which later bore fruit. Sometime on January 7, 1928, the Spouses Ignacio Almazar and Gregoria Rivera purchased the land from him (Exh. 2). The land now was declared in the name of Gregoria Rivera under Tax Declaration No. 18333 (Exh. 3). There was another re-assessment under Tax Declaration No. 7968 (Exh. 3-A). They continued planting corn. On May 22, 1971, claimant herein and his wife purchased the land from Gregoria Rivera (Exh. 1). She caused the land to be declared in her name under Tax Declaration No. 10641 (Exh. 4). There was another re-assessment under Tax Declaration No. 10403 (Exh. 4-A). There was a house which they constructed as their abode. They continued planting corn and harvested about 10 to 15 sacks of ears of corn. They shelled the ears of corn and sold the same to the market for their own livelihood. Meanwhile, on the coconut trees they harvest about 50 to 100 nuts every 45 days for family consumption.

The land was surveyed in the name of the herein claimant per certification of the CENRO (Exh. 5). The cadastral survey costs in the amount of ₱101.70 had been paid under Official Receipt No.

Supreme Court E-Library

2155546 (Exh. 6). Likewise, all taxes have been paid up to the current year (Exh. 7)."[1]

Finding that the claimant, together with his predecessor-in-interest, has "satisfactorily possessed and occupied the land in the concept of owner openly, continuously, adversely, notoriously and exclusively since 1926, very much earlier to June 12, 1945," the court ordered the registration and confirmation of Lot 10704 in the name of the Spouses Monico Rivera and Estrella Nota.

The Director of Lands appealed to the Court of Appeals, alleging that the finding of the trial court that claimants-appellees and their predecessor-in-interest have possessed Lot 10704 since 1926 is not sufficiently supported by the evidence. The appellant contended that the earliest tax declaration presented by appellee took effect only in 1949 and that there is no evidence that Gregoria Rivera declared the same in her name for tax purposes during her alleged occupancy.

The Court of Appeals affirmed the judgment appealed from. It ruled:

"There is competent evidence to prove that the lot in question was originally owned or claimed to be owned by Eliseo Rivera. Sometime in 1928, the spouses Ignacio Almazar and Gregoria Rivera purchased said lot from Eliseo Rivera. This is evidenced by a notarial deed of absolute sale (Exh. 2). The land was declared in the name of Gregoria Rivera under Tax Declaration No. 1833 (Exh. 3). This tax declaration was superseded by Tax Declaration No. 7968 (Exh. 3-A). On May 22, 1971, appellee and his wife Estrella Nota purchased the land from Gregoria Rivera (Exh. 1). From then on, the appellee and his wife continued to possess the lot in question in the concept of owner."[2]

The appellate court held that appellee was competent to testify with regard to the possession of lot in question, and the finding of the trial court involving the credibility of witnesses carries great weight on appeal.

---

[1] *Rollo*, pp. 32-33.

[2] *Rollo*, p. 51.

Supreme Court E-Library

Motion for reconsideration of the above-mentioned decision having been denied, the Director of Lands has brought the instant petition, essentially raising the same arguments in the Court of Appeals to the effect that the tax declarations presented by appellees do not prove their allegation of possession by their predecessor-in-interest since 1926; the earliest tax declaration took effect only in 1949 and claimant Monico Rivera was not competent to testify as to the possession of his vendor since 1926 as he had no personal knowledge thereof.

Claimant-appellee himself filed Answer/Comment and relies on the decisions of the trial court and the Court of Appeals to bolster his claim of title to the lot in question.

We find no merit in the appeal.

The petitioner assigns as error the finding of the respondent court that spouses Monico Rivera and Estrella Nota have a registrable title to the lot in question and ordering registration of such title.

The question whether spouses Monico Rivera and Estrella Nota were in open, continuous, exclusive and notorious possession of ownership under a *bona fide* claim of ownership for at least thirty years prior to 1973 is a question of fact which was resolved affirmatively by the trial court and the Court of Appeals. Such factual finding is generally binding upon this court which should limit itself to questions of law in an appeal by petition for review on *certiorari* under Rule 45.[3] There is a question of law where there is a doubt raised concerning the correct application of law and jurisprudence on the matter.[4]

We find no reversible error in the assailed judgment.

Section 48 of the Public Land Act, as amended provides:

"Sec. 48. The following described citizens of the Philippines, occupying lands of public domain or claiming to own any such lands or an interest thereon, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province

[3] Section 1.

[4] *Roman Catholic Archbishop of Manila vs. C.A.*, 258 SCRA 186.

Supreme Court E-Library

where the land is located for confirmation of their claims, and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

x x x x x x x x x

(b) those who by themselves or through their predecessor-in-interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or *force majeure.* They shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this Chapter."

The period of filing applications for judicial confirmation of imperfect or incomplete titles was extended to December 31, 1987 under P. D. No. 1073. Section 4 of P. D. No. 1073 provides:

"Section 4. The provisions of Section 48(b) and Section 48 (c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a *bona fide* claim of acquisition of ownership, since June 12, 1945."

Since claimant Monico Rivera acquired Lot 10704 from Gregoria Rivera by deed of absolute sale dated May 22, 1971 (Exh. "1") and has been in possession for only over two years when he filed his Amended Answer on August 10, 1973, he had the burden of proving that he together with his predecessor-in-interest Gregoria Rivera have been in possession since June 12, 1945 under a *bona fide* claim of ownership.

Claimant Rivera's evidences consisted of: (1) The deed of sale dated January 7, 1928 entitled *Escritura de Venta Real y Absoluta* whereby the former owner (Eliseo Rivera) sold the lot to Ignacio Almazar married to Gregoria Rivera (Exh. "2"); (2) Tax Declaration No. 18333 in the name of Gregoria Rivera, which was notarized in December 1927 (Exh. "3"); (3) Tax

Supreme Court E-Library

Declaration No. 7968 in the name of Gregoria Rivera beginning with the year 1949, which cancelled Tax Declaration No. 18333 (Exh. "3-A"); (4) Deed of Absolute Sale executed by Gregoria Rivera, widow of Ignacio Almazar, in favor of Estrella Nota, married to Monico Rivera dated May 22, 1971 (Exh. "1"); (5) Tax Declaration No. 10641 in the name of Estrella Nota (who is the wife of Eliseo Rivera) (Exh. "4"); (6) Tax Declaration No. 10403 in the name of Estrella Nota beginning with the year 1980, which cancelled Tax Declaration No. 10641 (Exh. "4-A"). Claimant also presented a certification that Lot No. 10704 was surveyed and is not covered by any public land application (Exh. "5"; Exh. "6"), and a certification dated July 23, 1990 of the office of the Municipal Treasurer of Oas that Ignacio Almazar, the declared owner paid taxes for 1949-1977 (O. R. No. 4676603 dated December 17, 1986); 1978-1979 (O. R. No. 4676602 dated December 17, 1986); 1980-1985 (O. R. No. 4676601 dated December 17, 1986; 1986 (O. R. No. 4676602 dated December 17, 1986); and 1987-1990 (O. R. No. 6422562 dated July 23, 1990) (See Exh. "7").

Claimant Monico Rivera also testified that Gregoria Rivera from whom he bought the lot in question has been in possession since 1928, and planted corn and coconuts; after having bought the same in 1971 from Gregoria Rivera, claimant continued planting corn and harvesting the coconuts, and built a small hut where his family lives.[5]

Contrary to the contention of appellant Director of Lands, the earliest tax declaration presented by the claimant is not for 1949. Tax Declaration No. 18333 (Exh. "3") in the name of Gregoria Rivera is an ancient notarized document, torn at the bottom, but the jurat at the back thereof clearly shows that the declaration was subscribed in December 1927. This was the tax declaration that was cancelled by Tax Declaration No. 7968 (Exh. "3-A"), which begins with the year 1949. Considering the date of the earliest tax declaration, which shows it is not of recent vintage to support a pretended possession of property, it is believed that the respondent court did not commit reversible

[5] Tsn, July 24, 1990.

Supreme Court E-Library

error in affirming the finding of the trial court that Monico Rivera's assertion of possession under claim of ownership is tenable.

"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 at least 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.[6]

There is reason to reject the appellant's claim that Monico was incompetent to testify regarding Gregoria's possession. Aside from the fact that Monico Rivera and his wife Estrella Nota bought the property from Gregoria Rivera, it appears undisputed that the latter was the sister of Eliseo Rivera, the father of Monico and that claimant was born on Lot 10704 and grew up there.[7]

WHEREFORE, finding no reversible error in the decision appealed from, the same is *AFFIRMED*.

SO ORDERED.

Romero (Chairman), Vitug, Panganiban, and *Purisima, JJ.,* concur.

---

[6] *Republic vs. C.A.*, 258 SCRA 712; at pp. 720-721; see also *Heirs of Severo Legaspi, Sr. vs. Vda. de Dayof*, 188 SCRA 508, 517.

[7] Comments to Petitioner's Reply, p. 95, *Rollo*.