



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PAZ DEL ROSARIO,
Petitioner,

G.R. No. 177392

Present:

LEONARDO-DE CASTRO, J.,*
PERALTA,
*Acting Chairperson,***
ABAD,
MENDOZA, and
LEONEN, JJ.

- versus -

FELIX H. LIMCAOCO, Z. ROJAS
AND BROS., REPUBLIC OF THE
PHILIPPINES, and REGISTER OF
DEEDS OF TAGAYTAY CITY,
Respondents.

X ----- X

LUDIVINA LANTIN-ROJAS,
LEANDRITO L. ROJAS,
ROSEMARIE T. ROJAS,
LEURENCIO L. ROJAS, MA.
STELLA ROJAS, TERESITA ROJAS,
JOCELYN ROJAS, VIRGINIA
SALCEDO ROJAS, BAILIA ROJAS-
FOJAS, EULOGIA ROJAS-CORPUS,
VIRGILIO ROJAS, ELIZABETH
ROJAS, THERESA V. ROJAS-
PERALTA, MANUELITA V. ROJAS,
HONORIO V. ROJAS, SYLVIA
ROJAS, and MARIA R. JOCO-
SHIRANI, in substitution of Z. ROJAS
AND BROS.,

G.R. No. 177421

Petitioners,

- versus -

* Designated Acting Member, in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order 1361 dated November 19, 2012.

** Per Special Order 1360 dated November 19, 2012.

**THE REPUBLIC OF THE PHILIPPINES,
represented by THE DIRECTOR
OF LANDS, PAZ DEL ROSARIO,
and FELIX LIMCAOCO,**

Respondents.

Promulgated:

26 November 2012

x

Macapian

x

DECISION

ABAD, J.:

These cases refer to various claims over a vast parcel of land in Tagaytay, the ownership of which had been previously awarded in a land registration proceeding but no decree of registration has as yet been issued pursuant to such award.

The Facts and the Case

Three different claims on a 12.5-hectare of land in Maitim II, Tagaytay City, Cavite, brought about these cases. Paz Del Rosario (Del Rosario) contends that in 1976 she bought the land from the Amulong family which had been in peaceful and continuous possession of the same since time immemorial. Del Rosario presented a copy of the February 27, 1976 *Kasulatan ng Bilihang Tuluyan* that evidences the sale. Felix H. Limcaoco (Limcaoco), the other claimant, alleges that he bought the same land from one Eugenio Flores as shown by a February 13, 1976 Deed of Absolute Sale. Finally, Z. Rojas and Bros., the third claimant, claims that the spouses Honorio and Maria Rojas bought the land as early as 1932 from the spouses Petrona Amulong and Agapito Acosta.

Upon learning that the government issued a free patent in Limcaoco's favor, on June 7, 1977 Del Rosario filed a complaint for reconveyance against him before the Tagaytay Regional Trial Court (RTC) in Civil Case

TG-411. Later, Z. Rojas and Bros., a partnership, filed a complaint-in-intervention in the case, pointing out that the spouses Rojas had donated the subject land to their children, who in turn had applied for the registration of the property in their names with the then Court of First Instance (CFI) of Cavite which rendered a Decision on April 17, 1941, granting the application. The Court of Appeals (CA) affirmed the CFI Decision on December 29, 1942.

On September 15, 1981 Z. Rojas and Bros. also filed a petition with the Bureau of Lands for the cancellation of Limcaoco's Free Patent 578173 and Original Certificate of Title (OCT) OP-165. After hearing, the Director of Lands recommended the cancellation of the subject Free Patent and OCT, which recommendation the Ministry of Natural Resources approved. On February 27, 1984 the Republic of the Philippines filed, through the Bureau of Lands, a complaint for the cancellation of Free Patent 578173 and OCT OP-165 before the Tagaytay RTC in Civil Case TG-796 in which Z. Rojas and Bros. again filed a complaint-in-intervention. Civil Cases TG-411 and TG-796 were eventually consolidated and jointly tried.

On October 17, 1997 the RTC rendered a decision, declaring Z. Rojas and Bros. as the true and lawful owner of the subject land, annulling Limcaoco's Free Patent and OCT, and ruling that Del Rosario merely acquired a possessory right of tenancy over the land. Meanwhile, on May 25, 2000 Z. Rojas and Bros. was dissolved and was substituted by the Rojas heirs.¹ The court granted the motion for substitution on July 19, 2000. The appeals brought before the CA were joined and docketed as CA-G.R. CV 76599.

¹ Consisting of Ludivina Lantin-Rojas, Leandrito L. Rojas, Rosemarie T. Rojas, Leurencio L. Rojas, Ma. Stella Rojas, Teresita Rojas, Jocelyn Rojas, Virginia Salcedo-Rojas, Basilia Rojas-Fojas, Eulogia Rojas-Corpus, Virgilio Rojas, Elizabeth Rojas, Theresa V. Rojas-Peralta, Manuelita V. Rojas, Honorio V. Rojas, Sylvia Rojas, and Maria R. Joco-Shirani; *id.* at 238-241.

On April 28, 2006 the CA rendered a decision holding that, while the Rojas heirs appear to have a just title over the property, the partnership of Z. Rojas and Bros., which had a separate and distinct personality, did not. The CA further held that its determination is without prejudice to the claim of the individual Rojas heirs over the property and to pending or future proceedings leading to the grant of such claim. The appellate court, however, affirmed the rest of the RTC Decision. Del Rosario and the Rojas heirs appealed to this Court in G.R. 177392 and G.R. 177421, respectively.

The Issue Presented

The sole issue in these cases is whether or not the CA committed error in declaring the Rojas heirs, rather than Del Rosario or Z. Rojas and Bros., substituted by the same heirs, the true and lawful owner of the subject Tagaytay City land.

The Ruling of the Court

Del Rosario mainly claims that she was a purchaser for value and in good faith, having bought the land from the Amulong sisters and their husbands as evidenced by the *Kasulatan ng Bilihang Tuluyan* dated February 27, 1976.

But, when Miguela Amulong, one of Josefa's daughters, took the witness stand, she testified as follows:

Q: Your father or mother, Josefa Garcia and Luis Amulong, had no tax declaration over this property, is it not?

A: I do not know, sir.

x x x x

Q: Do you know that properties owned by people in Tagaytay or anywhere else has the so-called tax declaration in order to pay realty taxes to the city or in any place where it is situated?

A: I do not know because **we have no property, sir.**

Q: And what did you sell in that exhibit “A” if you have no right?

A: **Only our right to farm, our tenancy right, sir.**² (Emphasis supplied)

Based on the above testimony, the RTC ruled that Del Rosario merely acquired the Amulongs’ tenancy rights. But, as the CA noted, this ruling contradicts the RTC’s order in the dispositive portion of its decision that ordered Del Rosario to surrender the possession of the property to Z. Rojas and Bros. As the appellate court pointed out, if tenancy really existed, then the surrender of the property to the alleged rightful owner would not be proper because tenants are entitled to security of tenure.³

Tenancy cannot be simply presumed. To exist, it must have the following elements: (1) the parties are the landowner and the tenant; (2) the subject matter of the relationship is agricultural land; (3) there is consent between the parties; (4) the purpose of the relationship is to bring about agricultural production; (5) there is personal cultivation on the part of the tenant; and (6) the harvest is shared between the landowner and the tenant.⁴ Here, it appears from the records that the Amulongs did not enter into an agricultural lease with the owner. They cultivated the land at their own expense and for their own benefit and never shared the produce of the land with anyone.

What Del Rosario actually bought from the Amulongs was, therefore, merely the right of possession, consistent with the facts claimed by the Rojas heirs. In a letter dated February 2, 1982 the Bureau of Lands directed an investigation on the different claims on that vast land in Tagaytay. The Director of Lands found that before the Japanese occupation, the Rojas children appointed Remigio Garcia as caretaker of the subject property. When he died, his daughter, Josefa Garcia, wife of Luis Amulong, took over

² *Rollo* (G.R. 177392), pp. 91-92.

³ *Galope v. Bugarin*, G.R. No. 185669, February 1, 2012, 664 SCRA 733, 740.

⁴ *Granada v. Bormaheco, Inc.*, G.R. No. 154481, July 27, 2007, 528 SCRA 259, 268.

the property. Josefa then employed her daughters and their husbands to work in the farm. On February 27, 1976 the Amulong family sold the property to Del Rosario for ₱100,000.00, without the consent and knowledge of the Rojas.⁵

The Director of Lands' investigation further revealed that the spouses Honorio Rojas and Maria Sipriaso bought the property in controversy from the Amulong family on July 16, 1932. On that same day, they transferred the property to their six children by way of donation. On August 14, 1939 the Rojas children filed a petition for registration and confirmation of title over the property before the CFI of Cavite in Land Registration Case 309, G.L.R.O. Record 51353. On April 17, 1941 the land registration court rendered a decision, declaring the registration of the parcel of land in favor of the Rojas. The CA thereafter affirmed the registration on December 29, 1942 in G.R. 9120, and from there, no more appeal was ever made.

Consequently, on February 10, 1943 the land registration court issued an Order, directing the Judicial Land Title Division of the Department of Justice to cause the preparation and issuance of the appropriate decree over the subject property for the Rojas children. When Manuel Rojas, however, was incarcerated by the Japanese during World War II, the documents pertaining to the Tagaytay land were confiscated from him. Still, the Rojas family continued paying the real estate taxes on the property which they had been doing since 1940. Sometime in December 1949 they formed a partnership named Z. Rojas and Brothers and contributed the subject parcel of land to constitute the partnership's capital.

It is indubitable that the April 17, 1941 CFI Decision in the land registration case granting the Rojas' application, the December 29, 1942 CA Decision affirming that grant, and the February 10, 1943 CFI Order in

⁵ *Rollo* (G.R. 177421), pp. 197-198.

the land registration case all prove the Rojas' ownership of the land. Still, the CA regarded these documents as private and that their due execution and authenticity need first be established before they can be admitted in evidence.

Notably, the contested documents are court decisions and orders, which are undoubtedly public in character.⁶ As public documents, their due execution and authenticity need not be proved to make them admissible in evidence.⁷ Their existence may be evidenced by an official publication or by a copy attested by the officer having the legal custody of the record.⁸ Here, the copies of the assailed court issuances were attested by Mr. Leon Barrera, the then Cavite CFI Deputy Clerk of Court. The only reason the CA regarded those court orders as private was that they were not reconstituted after the original court records had been destroyed in a fire.⁹

But reconstitution cannot apply where, as in the land registration action in question, the trial had already ended and the court had indeed already decided.¹⁰ Reconstitution of judicial records under Act 3110¹¹ are undertaken after they have been lost only with respect to pending proceedings where the subject case had not yet been decided. It does not apply to closed and decided cases.¹²

⁶ Rule 132, Section 19. *Classes of documents*.—For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) The **written official acts, or records of the official acts of** the sovereign authority, **official bodies and tribunals**, and public officers, whether of the Philippines, or of a foreign country;

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private. (Emphasis ours)

⁷ Evidence (A Restatement for the Bar), Willard B. Riano, 2006, p. 119.

⁸ REVISED RULES OF COURT, Rule 132, Section 24.

⁹ Supra note 2, at 96.

¹⁰ *Cristobal v. Court of Appeals*, 257 Phil. 433, 442 (1989).

¹¹ Entitled AN ACT TO PROVIDE AN ADEQUATE PROCEDURE FOR THE RECONSTITUTION OF THE RECORDS OF PENDING JUDICIAL PROCEEDINGS AND BOOKS, DOCUMENTS, AND FILES OF THE OFFICE OF THE REGISTER OF DEEDS, DESTROYED BY FIRE OR OTHER PUBLIC CALAMITIES, AND FOR OTHER PURPOSES.

¹² *Director of Lands v. Court of Appeals*, 195 Phil. 9, 17 (1981).

And even assuming that the subject documents may be regarded as private in character,¹³ the Rojas presented Mr. Barrera, the retired Cavite CFI Deputy Clerk of Court, who established by his testimony and various supporting papers, the due execution and authenticity of the documents in question.¹⁴ Thus:

Q: Do you know if a decision was ever rendered in the case by the Court of First Instance of Cavite?

A: There was a decision rendered in year 1941.

Q: Now, I would like to show to you a document which appears to be a decision in **Case Number 309, Zosimo Rojas, et al. versus Hammon Buch, et al.** Will you inform the Court what relation has this to the decision that you have mentioned a while ago?

A: **This is a copy of that decision, sir.**

Q: Now, I noticed that at the last page thereof, there is a signature appearing above the printed name Leon Barrera, who is described or identified as Deputy Clerk of Court. Could you tell us whose signature is that?

A: That is my signature, sir.

Q: I also noticed, Mr. Barrera, that there is a phrase here which states **“a true copy.”** Now, could you tell the Court where is the original of this decision?

A: I believe it was burned when the Provincial Capitol Building was razed by fire in Cavite City.

X X X X

Q: Mr. Witness, could you tell us who prepared a copy of this decision which you have identified a while ago?

A: Well, as far as my memory won't fail me, **I think this is a carbon copy of the original.**

¹³ Rule 132, Section 20. *Proof of private document.* - Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

a. **By anyone who saw the document executed or written;** or

b. By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be. (Emphasis ours)

¹⁴ (1) A photocopy of the Notice of Original Hearing issued by Cavite CFI Judge Francisco Zulueta, and attested by the Chief of the General Land Registration Office on August 19, 1936; (2) A Certification dated August 3, 1979 issued by the Librarian for Technical Services of the Supreme Court of the Philippines, to the effect that Land Registration Case 309, G.L.R.O. 51353 was published in the Official Gazette, Vol. XXXIV No. 122, pp. 1979-1980; (3) A true copy of the Decision of the Court of First Instance in Land Registration Case 309 made in the Spanish language issued and signed by Leon Barrera, Deputy Clerk of Court; and a copy of its English translation; (4) A copy of the decision of the Court of Appeals, Second Division in G.R. 9120 made in Spanish, and a copy of its English translation; (5) A Certification by the Assistant Clerk of Court of the Court of Appeals relative to a certified photocopy of the entire page 277 of “Official List of Decisions Promulgated from 1936 to 1942” of the Court of Appeals”; and (6) An unsigned copy of an Order of the Court of First Instance of Cavite in Land Registration Case 309, G.L.R.O. 51353 for the issuance of the decree; *rollo* (G.R. 177421), pp. 199-200.

Q: Now, where is the original, as you have said?

A: It was burned, sir.

Q: Now, I also noticed at the last page of this decision initials appearing as EG/MF. Is there any significance on these initials?

A: Yes, sir.

Q: Now, could you tell what is the significance of these initials?

A: EG pertains to Judge Eulalio Garcia, and the MF, is the initial of the stenographer, Manuel Flores.

Q: Now, you said that this is a carbon original. However, I noticed that there is a signature above the printed name of the Judge Eulalio Garcia. Would you explain or do you know the reason why?

A: Well, usually, Judge Eulalio Garcia does not sign the copy, the carbon copy. It is only the original, sir.

Court: Are you trying to say that while the judge would sign the first original copy, the duplicate original, the triplicate original or the fourth original are no longer signed by the judge, as that was his practice?

A: Yes, sir.

x x x x

Court: Mr. Witness, the question is, after the decision has been rendered by the Court of First Instance, you said the case was appealed?

A: Yes, your Honor.

Court: Do you know to what particular office it was appealed, the Supreme Court or the Court of Appeals because these are the two higher courts?

A: To the Honorable Court of Appeals, your Honor.

Court: Now, what happened after this appeal took place, if any decision or resolution came out and was furnished your court?

A: **There was a decision of the Court of Appeals we received personally from a messenger or employee of the Court of Appeals.**

x x x x

Q: Before you submitted the decision to the Judge, to the then Judge Eulalio Garcia, what did you do before submitting the same to the judge? Before submitting to the judge, what did you do with the decision?

A: I attached the decision of the Court of Appeals with the records of the Court, together with all the exhibits, sir.

x x x x

Q: x x x When you submitted the decision to the judge, what else did you do?

A: **The judge after reading the decision told me to prepare the order for the issuance of the decree for his signature.**

Q: Were you able to prepare the order from the issuance of the decree as ordered by the Court?

A: Yes, sir.

x x x x

Q: I am going to show to you **a document purported to be an order for the issuance of the decree**, will you please tell us if it has any connection with the order you mentioned a while ago?

A: This is a copy of the order of the issuance of the decree, and original of which was signed by the judge. Judge Eulalio Garcia.

Q: What made you say that this a copy?

A: **I was the one who prepared this.**

Q: What is your **indication** appearing in the recording or document which would **show that you were the one who prepared the document?**

A: **My initials appear on this duplicate.**

Q: Will you please point the same?

A: **L.B., Leon Barrera.**¹⁵ (Emphasis supplied)

The trial court also held that the fact that no decree has as yet been issued cannot divest the Rojas of their title to and ownership of the land in question. There is nothing in the law that limits the period within which the court may issue a decree. The reason is that the judgment is merely declaratory in character and does not need to be enforced against the adverse party.¹⁶ The Court does not find any cogent reason to deviate from the rulings of the Tagaytay RTC.

It is settled that the conclusions and findings of fact of a trial judge are entitled to great weight and should not be disturbed on appeal, unless strong and compelling evidence to the contrary exists.¹⁷ In comparison, appellate magistrates merely read and rely on the cold and inanimate pages of the transcript of stenographic notes and the original records brought before

¹⁵ Supra note 2, at 99-101.

¹⁶ *Republic v. Nillas*, 541 Phil. 277, 285 (2007).

¹⁷ *Dela Rosa v. Heirs of Juan Valdez*, G.R. No. 159101, July 27, 2011, 654 SCRA 467, 487.

them. This places the trial judge in a better position to examine the real evidence and calibrate the testimonies of the witnesses at the stand.¹⁸

Finally, the CA held that although the Rojasas might indeed have a just title to the property, they do not necessarily share it with Z. Rojas and Bros, the partnership.¹⁹ The appellate court even indirectly suggests that, since Z. Rojas and Bros. had no legal interest in the land, the Rojas heirs should just institute a new action to claim ownership of the same.

Upon review of the records, however, it would appear that sometime in December 1949 the Rojas heirs transferred the ownership of the property to Z. Rojas and Bros. when they contributed it as the partnership's capital. And when the partnership was dissolved on May 25, 2000, Z. Rojas and Bros. filed a motion for its substitution by the Rojas heirs, which the trial court granted on July 14, 2000. No one has challenged that substitution.

In any case, the rules of procedure are mere tools designed to facilitate the attainment of justice. A strict and rigid application of such rules would but tend to frustrate rather than promote substantial justice. If this Court were to follow the CA ruling, the Rojasas would be forced to go through another calvary, presenting the same set of evidence and again proving the fact of their ownership, notwithstanding that they already did so against stiff oppositions offered by other determined claimants. The Rojasas have already waited for over three decades. It is highly unjust to make them wait for several decades more.

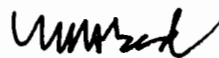
WHEREFORE, the Court **GRANTS** the petition in G.R. 177421, **REVERSES** and **SETS ASIDE** the CA Decision in CA-G.R. CV 76599 dated April 28, 2006, **REINSTATES** and **AFFIRMS** the Regional Trial Court of Tagaytay's Decision in Civil Cases TG-411 and TG-796 dated

¹⁸ *Bastian v. Court of Appeals*, G.R. No. 160811, April 18, 2008, 552 SCRA 43, 53.


¹⁹ *Rollo* (G.R. 177421), pp. 86-87.

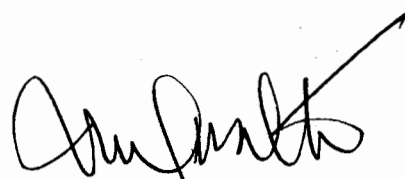
October 17, 1997, and **DISMISSES** for lack of merit the petition in G.R. 177392.


SO ORDERED.


ROBERTO A. ABAD
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

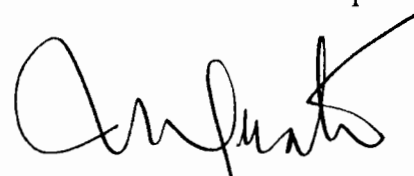

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson


JOSE CATRAL MENDOZA
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice