



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JOSE Z. CASILANG, SR., substituted by
his heirs, namely: FELICIDAD
CUDIAMAT VDA. DE CASILANG,
JOSE C. CASILANG, JR., RICARDO C.
CASILANG, MARIA LOURDES C.
CASILANG, CHRISTOPHER C.
CASILANG, BEN C. CASILANG,
DANTE C. CASILANG, GREGORIO C.
CASILANG, HERALD C. CASILANG;
and FELICIDAD Z. CASILANG,
MARCELINA Z. CASILANG, JACINTA
Z. CASILANG, BONIFACIO Z.
CASILANG, LEONORA Z. CASILANG,
and FLORA Z. CASILANG,
Petitioners,

G.R. No. 180269

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

ROSARIO Z. CASILANG-DIZON,
MARIO A. CASILANG, ANGELO A.
CASILANG, RODOLFO A. CASILANG,
and ATTY. ALICIA B. FABIA, in her
capacity as Clerk of Court and Ex-Officio
Sheriff of Pangasinan and/or her duly
authorized representative,
Respondents.

Promulgated:

FEB 20 2013

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DECISION

REYES, J.:

Before us is a petition for review of the Decision¹ dated July 19, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 79619, which reversed and set aside the Decision² dated April 21, 2003 of the Regional Trial Court (RTC) of Dagupan City, Branch 41, in Civil Case No. 98-02371-D.

Antecedent Facts

The late spouses Liborio Casilang (Liborio) and Francisca Zacarias (Francisca) had eight (8) children, namely: Felicidad Casilang (Felicidad), Ireneo Casilang (Ireneo), Marcelina Casilang (Marcelina), Jacinta Casilang (Jacinta), Bonifacio Casilang (Bonifacio), Leonora Casilang (Leonora), Jose Casilang (Jose) and Flora Casilang (Flora). Liborio died intestate on October 11, 1982 at the age of 83, followed not long after by his wife Francisca on December 25, 1982. Their son Bonifacio also died in 1986, survived by his child Bernabe Casilang (Bernabe), while son Ireneo died on June 11, 1992, survived by his four (4) children, namely: Mario Casilang (Mario), Angelo Casilang (Angelo), Rosario Casilang-Dizon (Rosario) and Rodolfo Casilang (Rodolfo), herein respondents.

The estate of Liborio, which left no debts, consisted of three (3) parcels of land located in *Barangay Talibaew*, Calasiao, Pangasinan, namely: (1) Lot No. 4676, with an area of 4,164 square meters; (2) Lot No. 4704, containing 1,164 sq m; and (3) Lot No. 4618, with 897 sq m.

On May 26, 1997, respondent Rosario filed with the Municipal Trial Court (MTC) of Calasiao, Pangasinan a complaint for unlawful detainer, docketed as Civil Case No. 847, to evict her uncle, petitioner Jose from Lot No. 4618. Rosario claimed that Lot No. 4618 was owned by her father Ireneo, as evidenced by Tax Declaration (TD) No. 555 issued in 1994 under her father's name. On April 3, 1997, the respondents executed a *Deed of Extrajudicial Partition with Quitclaim*³ whereby they adjudicated Lot No. 4618 to themselves. In the same instrument, respondents Mario, Angelo and Rodolfo renounced their respective shares in Lot No. 4618 in favor of Rosario.

¹ Penned by Associate Justice Myrna Dimaranan Vidal, with Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr., concurring; *rollo*, pp. 42-54.

² Rendered by Presiding Judge Emma M. Torio; *id.* at 55-60.

³ Exhibit "2", folder of exhibits (for the defendants), pp. 2-3.

In his Answer, Jose raised the defense that he was the “lawful, absolute, exclusive owner and in actual possession” of the said lot, and that he acquired the same “through intestate succession from his late father.”⁴ For some reason, however, he and his lawyer, who was from the Public Attorney’s Office, failed to appear at the scheduled pre-trial conference, and Jose was declared in default; thus, the adverse judgment against him.⁵

On February 18, 1998, the MTC rendered judgment finding Rosario to be the owner of Lot No. 4618, and ordering Jose to remove his house, vacate Lot No. 4618, and pay Rosario ₱500.00 in monthly rentals from the filing of the complaint until she was placed in possession, plus attorney’s fees of ₱5,000.00, litigation expenses and costs. On March 23, 1998, the MTC issued a writ of execution; and on August 28, 1998, a Writ of Demolition⁶ was issued.

On June 2, 1998, the petitioners, counting 7 of the 8 children of Liborio and Francisca,⁷ filed with the RTC of Dagupan City a Complaint,⁸ docketed as Civil Case No. 98-02371-D for “Annulment of Documents, Ownership and Peaceful Possession with Damages” against the respondents. On June 10, 1998, the petitioners moved for the issuance of a writ of preliminary injunction or temporary restraining order, which the RTC however denied on June 23, 1998.

Among the documents sought to be annulled was the 1997 Deed of Extrajudicial Partition executed by Ireneo’s children over Lot No. 4618, as well as TD No. 555, and by necessary implication its derivatives, TD No. 15177 (for the lot) and TD No. 15176 (for the house), both of which were issued in 1998 in the name of Rosario Casilang-Dizon.⁹

The petitioners alleged in their complaint that all eight (8) children of Liborio entered into a verbal partition of his estate, pursuant to which Jose was allotted Lot No. 4618 as his share; that Ireneo never claimed ownership of Lot No. 4618, nor took possession of it, because his share was the southwestern 1/5 portion of Lot No. 4676, containing an area of 1,308 sq m,¹⁰ of which he took exclusive possession during his lifetime; that Jose has always resided in Lot No. 4618 since childhood, where he built his family’s semi-concrete house just a few steps away from his parents’ old bamboo hut; that he took in and cared for his aged parents in his house until their deaths

⁴ CA *rollo*, p. 88.

⁵ Id.

⁶ Records, p. 73.

⁷ Bonifacio died in 1986 and was represented by his son Bernabe; Jose died in 2006 and was substituted in Civil Case No. 98-02371-D by his wife and children. Ireneo died in 1992 and his interest is being defended by his children, namely: Rosario, Mario, Angelo, and Rodolfo.

⁸ Records, pp. 1-7.

⁹ Exhibits 2, 4 and 4-A, folder of exhibits (for the defendants), pp. 2-3, 7, 8.

¹⁰ Records, pp. 18-19.

in 1982; that one of his children has also built a house on the lot.¹¹ Jose, said to be the most educated of the Casilang siblings, worked as an insurance agent.¹² The complete disposition of the intestate estate of Liborio per the parties' verbal partition appears as follows:

1. Lot No. 4676, with 4,164 sq m, declared under TD No. 534 in Liborio's name,¹³ was verbally partitioned among Marcelina (236 sq m), Leonora (1,965 sq m), Flora (655 sq m), and Ireneo, represented by his children, the herein respondents-defendants (1,308 sq m), as shown in a *Deed of Extrajudicial Partition with Quitclaim* dated January 8, 1998, subsequently executed by all the Casilang siblings and their representatives.

2. Lot No. 4704, with 1,164 sq m, declared under TD No. 276 in Liborio's name,¹⁴ was divided among Jacinta and Bonifacio, who died in 1986 and is now represented by his son Bernabe; and

3. Lot No. 4618, containing 897 sq m, declared since 1994 under TD No. 555 in Ireneo's name,¹⁵ is now the subject of the controversy below. Jose insists that he succeeded to it per verbal partition, and that he and his family have always occupied the same peacefully, adversely and exclusively even while their parents were alive.¹⁶

For her part, Rosario alleged in her answer with counterclaim,¹⁷ which she filed on September 15, 1998, that:

a) She is the actual and lawful owner of Lot No. 4618 with an area of 897 square meters, having acquired the same by way of a Deed of Extrajudicial Partition with Quitclaim dated 3 April 1997 which was duly executed among herein Appellant ROSARIO and her brothers, namely, MARIO, ANGELO and RODOLFO, all surnamed CASILANG;

b) Her ownership over subject property could be traced back to her late father IR[E]NEO which the latter inherited by way of intestate succession from his deceased father LIBORIO sometime in 1992; that the residential house described in herein Appellee JOSE's complaint is an illegal structure built by him in 1997 without her (ROSARIO's) knowledge and consent; that in fact, an ejectment suit was filed against Appellee JOSE with the Municipal Trial Court in Calasiao, Pangasinan in Civil Case No. 847;

¹¹ Id. at 2-3.

¹² TSN, July 28, 1999, p. 13.

¹³ Exhibit "E", folder of exhibits (for the plaintiffs), p. 5.

¹⁴ Exhibit "G", id. at 9.

¹⁵ Exhibit "1", folder of exhibits (for the defendants), p. 1.

¹⁶ Records, p. 17.

¹⁷ Id. at 59-66.

c) The subject lot is never a portion of Appellee JOSE's share from the intestate of his deceased father, LIBORIO; that on the contrary, the lot is his deceased brother IR[E]NEO's share from the late LIBORIO's intestate estate; that in fact, the property has long been declared in the name of the late IR[E]NEO as shown by Tax Declaration No. 555 long before his children ROSARIO DIZON, MARIO[,] ANGELO and RODOLFO, all surnamed CASILANG, executed the Deed of Partition dated 18 February 1998; that Appellee JOSE had actually consumed his shares which he inherited from his late father, and after a series of sales and dispositions of the same made by him, he now wants to take Appellants' property;

d) Appellee JOSE is never the rightful owner of the lot in question and has not shown any convincing proof of his supposed ownership; that the improvements introduced by him, specifically the structures he cited are the subject of a Writ of Demolition dated 28 August 1998 pursuant to the Order [dated] 17 August 1998 of the MTC of Calasiao, Pangasinan;

e) No protestation or objection was ever made by Appellee JOSE in Civil Case No. 847 (*Unlawful Detainer* case) where he was the defendant; that the truth was that his possession of the subject property was upon the tolerance and benevolence of his late brother IR[E]NEO during the latter's lifetime and that Appellant ROSARIO;

f) The RTC Clerk of Court and Ex-officio Provincial Sheriff would just be doing her job if she and her deputies would implement the writ of execution/demolition issued by the MTC of Calasiao, Pangasinan since it is its ministerial duty to do so;

g) The Appellees have no cause of action; not having shown in their complaint the basis, the reason and the very core of their claim as to why the questioned document should be nullified.¹⁸ (Citation omitted)

In their reply¹⁹ to Rosario's aforesaid answer, the petitioners asserted that the MTC committed a grave error in failing to consider a material fact—that Jose had long been in prior possession under a claim of title which he obtained by partition.

At the pre-trial conference in Civil Case No. 98-02371-D, the parties entered into the following stipulations:

1. That the late LIBORIO is the father of FELICIDAD, MARCELINA, JUANITA, LEONORA, FLORA and IR[E]NEO, all surnamed CASILANG[;]

2. That the late LIBORIO died in 1982; That the late LIBORIO and his family resided on Lot [No.] 4618 up to his death in 1982; That the house of the late LIBORIO is located on Lot [No.] 4618;

¹⁸ *Rollo*, pp. 47-48.

¹⁹ *Records*, pp. 74-76.

3. That Plaintiff JOSE used to reside on the lot in question because there was a case for ejectment filed against him;

4. That the house which was demolished is the family house of the late LIBORIO and FRANCISCA ZACARIAS with the qualification that it was given to the defendants;

5. That the action involves members of the same family; and

6. That no earnest efforts were made prior to the institution of the case in court.²⁰

Ruling of the RTC

After a full trial on the merits, the RTC in its Decision²¹ dated April 21, 2003 decreed as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

1. Declaring the Deed of Extrajudicial Partition with Quitclaim dated April 3, 1997 null and void;

2. Declaring plaintiff Jose Z. Casilang Sr. as the lawful owner and possessor of the subject Lot [No.] 4618 and as such, entitled to the peaceful possession of the same;

3. Ordering the defendants to pay to plaintiff Jose Z. Casilang Sr. attorney's fees in the amount of [P]20,000.00 and litigation expenses in the amount of [P]5,000.00, and to pay the costs of suit.

SO ORDERED.²²

The RTC affirmed Jose's ownership and possession of Lot No. 4618 by virtue of the oral partition of the estate of Liborio by all the siblings. In the *Deed of Extrajudicial Partition with Quitclaim*²³ dated January 8, 1998, subsequently executed by all the eight (8) Casilang siblings and their legal representatives—with Ireneo represented by his four (4) children, and Bonifacio by his son Bernabe—petitioners Jose, Felicidad, Jacinta and Bernabe, acknowledged that they had “*already received their respective shares of inheritance in advance*,”²⁴ and therefore, **renounced** their claims over Lot No. 4676 in favor of co-heirs Marcelina, Leonora, Flora and Ireneo, as follows:

²⁰ *Rollo*, pp. 48-49.

²¹ *Id.* at 55-60.

²² *Id.* at 60.

²³ Exhibit “F & F-1,” folder of exhibits (for the plaintiffs), pp. 6-7.

²⁴ Exhibit “F-1,” *id.* at 7.

[W]e hereby RENOUNCED, WAIVED AND QUITCLAIM, all our rights, interests and participations over the WHOLE parcel of land [Lot No. 4676], left by the late, LIBORIO CASILANG, in favor of our co-heirs, namely[:] MARCELINA Z. CASILANG-PARAYNO, LEONORA Z. CASILANG-SARMIENTO, FLORA Z. CASILANG, MARIO A. CASILANG, ANGELO A. CASILANG, ROSARIO A. CASILANG-DIZON AND RODOLFO A. CASILANG[.]²⁵

Thus, Jose expressly renounced his share in Lot No. 4676, which has an area of 4,164 sq m, because he had already received in advance his share in his father's estate, Lot No. 4618 with 897 sq m:

To the mind of the court, Jose Casilang could have not [sic] renounced and waived his rights and interests over Lot [No.] 4676 if he believes that Lot [No.] 4618 is not his, while the other lot, Lot [No.] 470[4], was divided between sister Jacinta Casilang and brother Bonifacio Casilang[,] Sr., who was represented by his son. In the same [way] as testified to by plaintiffs Felicidad Casilang and Jacinta Casilang, they signed the Deed of Extrajudicial Partition with Quitclaim wherein they waived and renounced their rights and interests over Lot [No.] 4676 because they have already received their share, which is Lot [No.] 470[4].²⁶

The RTC found baseless the claim of Rosario that Lot No. 4618 was an inheritance of her father Ireneo considering that a tax declaration is not conclusive proof of ownership. The RTC even noted that the tax declaration of Ireneo started only in 1994, although he had been dead since 1992. "Such being the case, the heirs of Ir[e]neo Casilang has [sic] no basis in adjudicating unto themselves Lot No. 4618 and partitioning the same by executing the Deed of Extrajudicial Partition with Quitclaim."²⁷

Appeal to the CA

Undeterred, Rosario appealed to the CA averring that: (1) the lower court erred in declaring the Deed of Extrajudicial Partition with Quitclaim dated April 3, 1997 as null and void; and (2) the lower court erred in declaring Jose as the lawful owner and possessor of the subject Lot No. 4618.²⁸

In the now assailed decision, the CA reversed the RTC by relying mainly on the factual findings and conclusions of the MTC in Civil Case No. 847, viz:

²⁵

Id.

²⁶*Rollo*, p. 59.²⁷

Id. at 59-60.

²⁸CA *rollo*, p. 22.

Per the records, the above described property was subject of Civil Case No. 847 decided by the MTC of Calasiao, First Judicial Region, Province of Pangasinan which rendered a judgment, *supra*, in favor of Appellant ROSARIO ordering herein Appellee JOSE and all persons claiming rights under him to vacate the land of Appellant ROSARIO. It was found by the MTC that the latter is the **owner** of the subject parcel of land located at Talibaew, Calasiao, Pangasinan; that the former owner of the land is the late IRENEO (who died on 11 June 1992), father of Appellant ROSARIO; that Extra Judicial Partition with Quitclaim was executed by and among the heirs of the late IRENEO; that MAURO [sic], ANGELO and RODOLFO, all surnamed CASILANG waived and quitclaimed their respective shares over the subject property in favor of Appellant ROSARIO; that Appellee JOSE was allowed by the late IRENEO during his lifetime to occupy a portion of the land without a contract of lease and no rentals being paid by the former; that Appellant ROSARIO allowed Appellee JOSE to continue occupying the land after the Extra Judicial Partition with Quitclaim was executed.²⁹

Moreover, noting that the decision in Civil Case No. 847 in favor of Rosario was issued on February 18, 1998 while the petitioners' complaint in Civil Case No. 98-02371-D was filed on June 2, 1998, the CA concluded that the latter case was a mere afterthought:

If the latter has really a strong and valid reason to question the validity of the Deed of Extra Judicial Partition with Quitclaim, *supra*, he could have done it soon after the said Deed was executed on 3 April 1997. However, curiously enough, it was only when the MTC ordered his eviction from the subject property that he decided to file the instant case against the Appellants.³⁰

Petition for Review in the Supreme Court

Now in this petition for review on *certiorari*, petitioners maintain that:

IN UPHOLDING THE LEGALITY [OF] THE DEED OF EXTRAJUDICIAL PARTITION AND QUITCLAIM DATED APRIL 3, 1997, THE HONORABLE COURT OF APPEALS GROSSLY VIOLATED THE SUBSTANTIVE RIGHT OF JOSE Z. CASILANG[,] SR. AS DIRECT COMPULSORY HEIR.³¹

Our Ruling and Discussions

There is merit in the petition.

²⁹ *Rollo*, p. 51.

³⁰ *Id.* at 52.

³¹ *Id.* at 17.

Inferior courts are empowered to rule on the question of ownership raised by the defendant in an ejectment suit, but only to resolve the issue of possession; its determination is not conclusive on the issue of ownership.

It is well to be reminded of the settled distinction between a summary action of ejectment and a plenary action for recovery of possession and/or ownership of the land. What really distinguishes an action for unlawful detainer from a possessory action (*accion publiciana*) and from a reivindicatory action (*accion reivindicatoria*) is that the first is limited to the question of *possession de facto*. Unlawful detainer suits (*accion interdictal*) together with forcible entry are the two forms of ejectment suit that may be filed to recover possession of real property. Aside from the summary action of ejectment, *accion publiciana* or the plenary action to recover the right of possession and *accion reivindicatoria* or the action to recover ownership which also includes recovery of possession, make up the three kinds of actions to judicially recover possession.³²

Under Section 3 of Rule 70 of the Rules of Court, the Summary Procedure governs the two forms of ejectment suit, the purpose being to provide an expeditious means of protecting actual possession or right to possession of the property. They are not processes to determine the actual title to an estate. If at all, inferior courts are empowered to rule on the question of ownership raised by the defendant in such suits, only to resolve the issue of possession and its determination on the ownership issue is not conclusive.³³ As thus provided in Section 16 of Rule 70:

Sec. 16. *Resolving defense of ownership*.—When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

It is apropos, then, to note that in contrast to Civil Case No. 847, which is an ejectment case, Civil Case No. 98-02371-D is for “Annulment of Documents, Ownership and Peaceful Possession;” it is an *accion reivindicatoria*, or action to recover ownership, which necessarily includes recovery of possession³⁴ as an incident thereof. Jose asserts his ownership over Lot No. 4618 under a partition agreement with his co-heirs, and seeks to invalidate Ireneo’s “claim” over Lot No. 4618 and to declare TD No. 555

³² *Custodio v. Corrado*, 479 Phil. 415, 426 (2004).

³³ *De Leon v. CA*, 315 Phil. 140, 152 (1995).

³⁴ *Ganila v. Court of Appeals*, 500 Phil. 212, 221 (2005).

void, and consequently, to annul the Deed of Extrajudicial Partition and Quitclaim executed by Ireneo's heirs.

It is imperative to review the CA's factual conclusions since they are entirely contrary to those of the RTC, they have no citation of specific supporting evidence, and are premised on the supposed absence of evidence, particularly on the parties' verbal partition, but are directly contradicted by the evidence on record.

It must be noted that the factual findings of the MTC, which the CA adopted without question, were obtained through Summary Procedure and were based solely on the complaint and affidavits of Rosario, after Jose had been declared in default. But since a full trial was had in Civil Case No. 98-02371-D, the CA should have pointed out the specific errors and weaknesses in the RTC's factual conclusions before it could rule that Jose was unable to present "any evidentiary support" to establish his title, and that his continued possession of Lot No. 4618 was by mere tolerance of Rosario. At most, however, the CA only opined that it was conjectural for the RTC to conclude, that Jose had already received his inheritance when he renounced his share in Lot No. 4676. It then ruled that the RTC erred in not considering the findings of the MTC in Civil Case No. 847—that Jose's possession over subject property was by mere tolerance. Said the appellate court:

Given the claim of the Appellee that Lot [No.] 4618 was **orally** given/assigned to him by his deceased father LIBORIO, or that his claim was corroborated by his sisters (his co-plaintiffs-Appellees), or that their claim is indubitably tied up with the Deed of Extrajudicial Partition with Quitclaim over Lot No. 4676, still We cannot fully agree with the pronouncement of the court *a quo* that Appellee JOSE could not have renounced and waived his rights and interest over Lot [No.] 4676 if he believes that Lot [No.] 4618 is not his. Wanting any evidentiary support, We find this stance as conjectural being unsubstantiated by law or convincing evidence. At the most and taking the factual or legal circumstances as shown by the records, We hold that the court *a quo* erred in not considering the findings of the MTC in Civil Case No. 847 ruling that herein Appellee JOSE's possession over subject property was by mere tolerance. Based as it is on mere tolerance, Appellee JOSE's possession therefore could not, in any way, ripen into ownership.³⁵ (Citations omitted)

³⁵

Rollo, pp. 53-54.

By relying solely on the MTC's findings, the CA completely ignored the testimonial, documentary and circumstantial evidence of the petitioners, obtained by the RTC after a full trial on the merits. More importantly, the CA did not point to any evidence of Rosario that Ireneo had inherited Lot No. 4618 from Liborio. All it did was adopt the findings of the MTC.

The Supreme Court is not a trier of facts, and unless the case falls under any of the well-defined exceptions, the Supreme Court will not delve once more into the findings of facts. In *Sps. Sta. Maria v. CA*,³⁶ this Court stated:

Settled is the rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals via Rule 45 of the Rules of Court is limited to reviewing errors of law. Findings of fact of the latter are conclusive, except in the following instances: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.³⁷ (Citation omitted)

In the instant case, the factual findings of the CA and the RTC are starkly contrasting. Moreover, we find that the CA decision falls under exceptions (7), (8) and (10) above, which warrants another review of its factual findings.

The evidence supporting Rosario's claim of sole ownership of Lot No. 4618 is the *Deed of Extrajudicial Partition with Quitclaim*, which she executed with her brothers Mario, Angelo and Rodolfo. There is no question that by itself, the said document would have fully conveyed to Rosario whatever rights her brothers might have in Lot No. 4618. But what needs to be established first is whether or not Ireneo did in fact own Lot No. 4618 through succession, as Rosario claims. And here now lies the very crux of the controversy.

³⁶ 349 Phil. 275 (1998).

³⁷ Id. at 282-283.

A review of the parties' evidence shows that they entered into an oral partition, giving Lot No. 4618 to Jose as his share, whereas Rosario presented no proof whatsoever that her father inherited Lot No. 4618 from his father Liborio.

Rosario's only proof of Ireneo's ownership is TD No. 555, issued in his name, but she did not bother to explain why it was dated 1994, although Ireneo died on June 11, 1992. Liborio's ownership of Lot No. 4618 is admitted by all the parties, but it must be asked whether in his lifetime Liborio did in fact transmit it to Ireneo, and if not, whether it was conveyed to him by Liborio's heirs. It is imperative for Rosario to have presented proof of this transfer to Ireneo, in such a form as would have vested ownership in him. We find, instead, a preponderance of contrary evidence.

1. In his testimony, Jose claimed that his parents' bamboo house in Lot No. 4618 disintegrated from wear and tear; so he took them in to his semi-concrete house in the same lot, which was just a few steps away, and he cared for them until they died; shortly before Liborio's death, and in the presence of all his siblings, his father Liborio assigned Lot No. 4618 to him as his inheritance; his house was demolished in 1998 as a result of the ejectment case filed against him; but his family continued to live thereat after reconstructing the house; Ireneo and his family did not live in Lot No. 4618; although Jose's job as an insurance agent took him around Pangasinan, he always came home to his family in his house in Lot No. 4618, which he used as his permanent address; only Lot No. 4676 was included in the Deed of Extrajudicial Partition dated January 8, 1998 because Lot No. 4618 had already been distributed to Jose, and Lot No. 4704 had already been assigned to Jacinta and Bonifacio as their share in their father's estate.³⁸

2. Jose's testimony was corroborated by petitioners Felicidad,³⁹ Jacinta,⁴⁰ Leonora,⁴¹ and Flora,⁴² who all confirmed that their brother Jose has always resided in Lot No. 4618 from his childhood up to the present, that he took their aged parents into his house after their bamboo house was destroyed, and he attended to their needs until they died in 1982. The sisters were also one in saying that their father Liborio verbally willed Lot No. 4618 to Jose as his share in his estate, and that their actual partition affirmed their father's dispositions. Jacinta claimed that she and Bonifacio have since taken possession of Lot No. 4704 pursuant to their partition, and have also

³⁸ TSN, July 28, 1999, pp. 3-15, 18, 24.

³⁹ TSN, March 30, 2000, pp. 4-5, 7-9.

⁴⁰ TSN, September 29, 1999, pp. 5, 9.

⁴¹ TSN, June 9, 2000, pp. 3-7.

⁴² TSN, December 20, 1999, pp. 5, 6, 10-12, 17, 18.

declared their respective portions for tax purposes.⁴³ Flora corroborated Jacinta on their taking possession of Lot No. 4704, as well as that Jose built his house on Lot No. 4618 next to his parents and they came to live with him in their old age. Flora affirmed that Exhibit “F” correctly reflects their verbal partition of Lot No. 4676, and that she was fully in accord with it. She added that Felicidad and Marcelina had since constructed their own houses on the portions of Lot No. 4676 assigned to them.⁴⁴ Felicidad mentioned that in their partition, Ireneo was given a portion of Lot No. 4676, while Lot No. 4704 was divided between Jacinta and Bonifacio, and Jose alone got Lot No. 4618. Leonora confirmed that they were all present when their father made his above dispositions of his estate.

3. Benjamin Lorenzo, a long-time neighbor of the Casilangs testified that Jose’s house stands on Lot No. 4618 and Ireneo did not live with his family on the said lot but was a tenant in another farm some distance away.⁴⁵

4. For her part, Rosario merely asserted that her father Ireneo succeeded to Lot No. 4618 from Liborio, as shown in TD No. 555 (Exhibit “1”); that she and her brothers extra-judicially settled Ireneo’s estate, and that they each waived their shares in her favor; and, that she has been paying taxes on Lot No. 4618. Rosario admitted, however, that Jose has lived in the lot since he was a child, and he has reconstructed his house thereon after its court-ordered demolition.⁴⁶ But Rosario on cross-examination backtracked by claiming that it was her father Ireneo and grandfather Liborio who built the old house in Lot No. 4618, where Ireneo resided until his death; he even planted various fruit trees. Yet, there is no mention whatsoever to this effect by any of the witnesses. Rosario also contradicted herself when she denied that Jose lived there because his job as insurance agent took him away often and yet admitted that Jose’s house stands there, which he reconstructed after it was ordered demolished by the MTC. Inexplicably, Rosario disclaimed knowledge of Ireneo’s share in Lot No. 4676, although she was a signatory, along with her brothers and all the petitioners, in the deed of partition of the said lot, whereby she got 1,308 sq m. Rosario also admitted that taxes were paid on the lot only beginning in 1997, not before.⁴⁷

5. Benjamin Dizon, husband of Rosario, testified that Rosario was losing appetite and sleep because of the case filed by Jose; that Ireneo died in another farm; that Ireneo had a house in Lot No. 4618 but Jose took over the house after he died in 1992.⁴⁸ Respondent Angelo, brother of Rosario, claimed that when he was 13 or 14 years old, he heard his grandfather tell

⁴³ TSN, September 29, 1999, p. 7.

⁴⁴ TSN, December 20, 1999, p. 5.

⁴⁵ TSN, August 31, 2000, pp. 6-7.

⁴⁶ TSN, March 21, 2001, p. 3-10, 13-14; *see also* TSN, May 24, 2001, p. 3.

⁴⁷ *Id.* at 14-16.

⁴⁸ TSN, May 24, 2001, pp. 6-8.

his father Ireneo that he would inherit Lot No. 4618. On cross-examination, Angelo insisted that his father had always lived with his family in his grandfather's house in Lot No. 4618, that Jose did not live there but was given another lot, although he could not say which lot it was; he admitted that his grandmother lived with Jose when she died, and Ireneo's share was in Lot No. 4676.⁴⁹

6. On rebuttal, Jose recounted that after his four children were married, Ireneo lived as a tenant in another farm; that during a period of illness he lived in Manila for some time, and later resided in Cagayan with his two married sons; and lastly on his return, worked as a tenant of the Maningding family for about 10 years in Calasiao, staying in a hut one kilometer away. Jose also claimed that Ireneo had asked Liborio for a portion of Lot No. 4676, a lot which is bigger than Lot No. 4618 by several hundreds of square meters.⁵⁰

7. On sur-rebuttal, Rosario claimed that her grandparents, father and mother lived in Lot No. 4618 when she was a child until she married and left in 1976; that her uncle Jose asked permission from Liborio to be allowed to stay there with his family. She admitted that Jose built his house in 1985, three years after Liborio died, but as if to correct herself, she also claimed that Jose built his house in Lot No. 4676, and **not** in Lot No. 4618. (Contrarily, her aunt Leonora testified that Jose built his house in Lot No. 4618 while their parents were alive.)⁵¹ Moreover, if such was the case, Rosario did not explain why she filed Civil Case No. 847, if she thought her uncle built his house in Lot No. 4676, and not in Lot No. 4618.⁵² Rosario also claimed that Ireneo always came home in the evenings to his father Liborio's house from the Maningding farm, which he tenanted for 10 years, but obviously, by then Liborio's house had long been gone. Again, confusedly, Rosario denied that she knew of her father's share in Lot No. 4676.

From the testimonies of the parties, we are convinced that the conclusion of the RTC is well-supported that there was indeed a verbal partition among the heirs of Liborio, pursuant to which each of his eight children received his or her share of his estate, and that Jose's share was Lot No. 4618.

⁴⁹ TSN, January 23, 2002, pp. 3-4, 7-8.

⁵⁰ TSN, October 3, 2002, pp. 4-7.

⁵¹ TSN, June 9, 2000, p. 6.

⁵² TSN, November 25, 2002, pp. 5, 8, 9, 12, 13-14.

The parties' verbal partition is valid, and has been ratified by their taking possession of their respective shares.

The validity of an oral partition is well-settled in our jurisdiction. In *Vda. de Espina v. Abaya*,⁵³ this Court declared that an oral partition is valid:

Anent the issue of oral partition, We sustain the validity of said partition. "An agreement of partition may be made orally or in writing. An oral agreement for the partition of the property owned in common is valid and enforceable upon the parties. The Statute of Frauds has no operation in this kind of agreements, for partition is not a conveyance of property but simply a segregation and designation of the part of the property which belong to the co-owners."⁵⁴

In *Maestrado v. CA*,⁵⁵ the Supreme Court upheld the partition after it found that it conformed to the alleged oral partition of the heirs, and that the oral partition was confirmed by the notarized quitclaims executed by the heirs subsequently.⁵⁶ In *Maglucot-Aw v. Maglucot*,⁵⁷ the Supreme Court elaborated on the validity of parol partition:

On general principle, independent and in spite of the statute of frauds, courts of equity have enforce [sic] oral partition when it has been completely or partly performed.

Regardless of whether a parol partition or agreement to partition is valid and enforceable at law, equity will [in] proper cases[,] where the parol partition has actually been consummated by the taking of possession in severalty and the exercise of ownership by the parties of the respective portions set off to each, recognize and enforce such parol partition and the rights of the parties thereunder. Thus, it has been held or stated in a number of cases involving an oral partition under which the parties went into possession, exercised acts of ownership, or otherwise partly performed the partition agreement, that equity will confirm such partition and in a proper case decree title in accordance with the possession in severalty.

In numerous cases it has been held or stated that parol partition may be sustained on the ground of estoppel of the parties to assert the rights of a tenant in common as to parts of land divided by parol partition as to which possession in severalty was taken and acts of individual ownership were exercised. And a court of equity will recognize the agreement and decree it to be valid and effectual for the purpose of

⁵³ G.R. No. 45142, April 26, 1991, 196 SCRA 312.

⁵⁴ Id. at 319, citing *Tolentino*, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, Vol. II, 1983 Edition, pp. 182-183.

⁵⁵ 384 Phil. 418 (2000).

⁵⁶ Id. at 433.

⁵⁷ 385 Phil. 720 (2000).

concluding the right of the parties as between each other to hold their respective parts in severalty.

A parol partition may also be sustained on the ground that the parties thereto have acquiesced in and ratified the partition by taking possession in severalty, exercising acts of ownership with respect thereto, or otherwise recognizing the existence of the partition.

A number of cases have specifically applied the doctrine of part performance, or have stated that a part performance is necessary, to take a parol partition out of the operation of the statute of frauds. It has been held that where there was a partition in fact between tenants in common, and a part performance, a court of equity would have regard to and enforce such partition agreed to by the parties.⁵⁸

Jose's possession of Lot No. 4618 under a claim of ownership is well borne out by the records. It is also consistent with the claimed verbal partition with his siblings, and fully corroborated by his sisters Felicidad, Jacinta, Leonora, and Flora, who further testified that they each had taken possession of their own shares and built their houses thereon.

A possessor of real estate property is presumed to have title thereto unless the adverse claimant establishes a better right.⁵⁹ Moreover, under Article 541 of the Civil Code, one who possesses in the concept of owner has in his favor the legal presumption that he possesses with a just title, and he cannot be obliged to show or prove it. Similarly, Article 433 of the Civil Code provides that actual possession under a claim of ownership raises a disputable presumption of ownership. Thus, actual possession and exercise of dominion over definite portions of the property in accordance with an alleged partition are considered strong proof of an oral partition⁶⁰ which the Court will not hesitate to uphold.

**Tax declarations and tax receipts
are not conclusive evidence of
ownership.**

It is settled that tax declarations and tax receipts alone are not conclusive evidence of ownership. They are merely *indicia* of a claim of ownership,⁶¹ but when coupled with proof of actual possession of the property, they can be the basis of claim of ownership through prescription.⁶² In the absence of actual, public and adverse possession, the declaration of the land for tax purposes does not prove ownership.⁶³ We have seen that

⁵⁸ Id. at 738-739.

⁵⁹ *Marcelo v. Maniquis and De la Cruz*, 35 Phil. 134, 140 (1916).

⁶⁰ *Heirs of Mario Pacres v. Heirs of Cecilia Ygoña*, G.R. No. 174719, May 5, 2010, 620 SCRA 213, 226.

⁶¹ *Heirs of Brusas v. CA*, 372 Phil. 47, 55 (1999).

⁶² *Heirs of Placido Miranda v. CA*, 325 Phil. 674, 683 (1996).

⁶³ *Seriña v. Caballero*, 480 Phil. 277, 289 (2004).

there is no proof that Liborio, or the Casilang siblings conveyed Lot No. 4618 to Ireneo. There is also no proof that Ireneo himself declared Lot No. 4618 for tax purposes, and even if he or his heirs did, this is not enough basis to claim ownership over the subject property. The Court notes that TD No. 555 was issued only in 1994, two years after Ireneo's death. Rosario even admitted that she began paying taxes only in 1997.⁶⁴ More importantly, Ireneo never claimed Lot No. 4618 nor took possession of it in the concept of owner.


WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated July 19, 2007 of the Court of Appeals in CA-G.R. CV No. 79619 is hereby **REVERSED** and **SET ASIDE**, and the Decision dated April 21, 2003 of the Regional Trial Court of Dagupan City, Branch 41 in Civil Case No. 98-02371-D is **REINSTATED**.

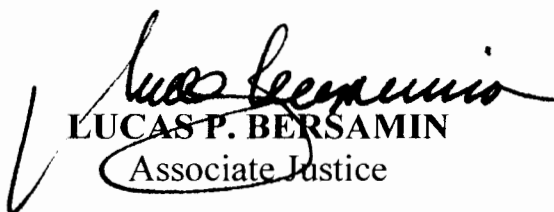
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

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TSN, March 21, 2001, p. 16.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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