

**GLEE PROPERTIES CORPORATION, REPRESENTED BY ITS
PRESIDENT GASPAR E. LLAMAS, JR., PLAINTIFF-APPELLANT, VS.
VIRGINIO A. ASTILLA, MARGARITO JECINO, VICTORINO JECINO,
ARNULFO JECINO...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal seeks to reverse or set aside the Order[1] dated June 18, 2010[2] rendered by the Regional Trial Court (RTC), Branch 9, Tacloban City in Civil Case No. 2009-01-05, the dispositive portion of which reads:

- WHEREFORE, premises considered, this Court hereby orders the following.
- Denying the affirmative defense of the defendants that the complaint states no cause of action for being devoid of merit.
- Granting defendants' affirmative defenses of res judicata, prescription and laches, and consequently, dismissing plaintiff's instant complaint due to the aforementioned grounds; and
- Granting answering defendants' counter-claims and ordering plaintiff to pay answering defendants the following:
 - Attorney's fees in the amount of Php 30,000.00 each of the answering defendants;
 - Appearance fee of Php 1,500.00 per appearance of the answering defendants' lawyers;
 - Litigation expenses in the amount of Php 10,000.00 each; and
 - Exemplary damages of Php30,000.00 for each of the answering defendants; and
- Dismissing defendants['] claim of moral damages due to lack of merit.

SO ORDERED.”

Factual Antecedents

The instant case stemmed from a Complaint[3] for Ownership, Quieting of Title, Reconveyance & Damages dated January 12, 2009, filed by plaintiff-appellant Glee Properties Corp. (represented by its President Gaspar E. Llamas, Jr.)[4] before the RTC against defendants-appellees, Virginio A. Astilla, Margarito Jecino, Victorino Jecino, Arnulfo Jecino, Francisco Baldevia, Vivencio Eslopore, Edgar Redrendo, Reynaldo Merino, Manuel Doldol, Teodorico Avecilla, Dionisio Lacosta, Gil Villagrancia, Bibin Cabu-ay, Edwin Cajipe, Lani Lacaba, Mercedes Padilla, Mario Baldevia, Estela Mendiola, Boyok Posenia, Alma Pulga, Virginia Pulga, Dominador Pulga and Alejandro Solajes[5] docketed as Civil Case No. 2009-01-05.

In its complaint, the appellants averred that it is the registered owner of Lot No. 4335, situated in Brgy. Cabalawan, Tacloban City and covered by Transfer Certificate of Title (TCT) No. T-69064[6], containing an area

of 34,740 square meters with a market value of P134,513.28. It acquired the land through a Joint Deed of Assignment[7] executed in its favor by Sps. Gaspar M. Llamas and Encarnacion Enriquez Llamas on February 7, 1995. Lot No. 4335 was contained in TCT No. T-2843[8] in the name of Encarnacion Enriquez Llamas, together with another Lot 4331. Lot 4335 was among those lots described in Decree No. 697562[9] issued by the CFI of Leyte on October 25, 1938 and approved by GLRO on March 16, 1939 in the name of Sps. Ciriaco Enriquez and Manuela Dioso, the parents of Encarnacion Enriquez Llamas.[10]

The Office of the Registry of Deeds of Tacloban acknowledged receipt of TCT No. T-2843 for the issuance of a new title in the name of the appellant. However, when the Register of Deeds (RD) of Tacloban issued TCT No. T-41255[11] on March 3, 1995 (but released only on 2007) as a transfer from TCT No. T-2843, it failed to include Lot No. 4335. Thus, the appellants counsel wrote a letter[12] dated March 21, 2007, requesting the RD to correct the omission it committed. When the said office refused to act on the request, the appellant filed a Petition to amend/alter TCT No. T-41255 to conform with TCT No. T-2843, docketed as Cad. Case No. 2007-07-36 before RTC Branch 6 (RTC Branch 6), Tacloban City.[13]

On June 20, 2008, the RTC Branch 6 promulgated a Decision[14], the fallo of which reads:

“WHEREFORE, in view of the foregoing, the court finds merit in the petition. The registrar of the Office of Register of Deeds, Tacloban City, accordingly pursuant to a Deed of Conveyance under Doc. No. 416, Page No. 85, Book No. XI, Series of 1995 of the Notarial Register of Notary Public of Tacloban City, is hereby ordered to cancel Transfer Certificate of Title No. 41255 and in lieu thereof with like faith and credit as the original, a new Transfer Certificate of Title incorporating or re-entering lot 4335 be issued with memorandum annotated at the back of the said title showing that the same cancels TCT No. T-2843 just as a like memorandum be as well annotated at the back of the new title issued that the same is a replacement of TCT No. T41225 upon order of the Court.

SO ORDERED.”

Pursuant to said order, the RD of Tacloban City issued TCT No. T-69064 on August 26, 2008, which now incorporated Lot 4335. On October 21, 2008, the appellant's lawyer sent notices[15] to vacate Lot 4335 to each of the appellees. Despite receipt, they however refused to vacate the premises. Virginio Astilla responded on November 5, 2008, claiming that he is the lawful owner and possessor of Lot 4335-A under TCT No. T-36775 and he has disposed it to co-appellees Dominador Pulga and Alejandro Solajes.[16]

In response, the appellees deny the material allegations of the complaint in their respective answer.

Vivencio Esplopor II alleged that he acquired Lot No. 4335-J covered by TCT No. T31723 through an extra-judicial settlement of estate of deceased person with sale executed by the legitimate heirs of Nicomedes Doldol, namely: Letecia Doldol, Fortunato Doldol, and Florita Doldol. Nicomedes, in turn, acquired said lot from the latter's father, the late Dionesio Doldol, through hereditary rights.[17]

Mario[18] and Franciso Baldevia[19] alleged that the former is the son of the latter who acquired Lot No. 4335-1, which is a portion of Lot No. 4335, covered by TCT No. T-31722 through a deed of absolute sale executed by Marcos Doldol and Francisco. Marcos, in turn acquired the said lot from his father, Dionesio Doldol through an instrument denominated as Extrajudicial Settlement Among Heirs for the Estate of Dionesio Doldol. Francisco gave permission to his son (Mario) to occupy and establish his residence on the subject lot out of love and generosity.[20]

Virginio A. Astilla alleged that he used to own Lot No. 4335-A, containing an area of 6,065 sq. m. but he had long lost its ownership when he sold it in two portions to two respective buyers, namely: Alejandro Solajes (5,565[21] sq. m.) in November 25, 1998, and Dominador Pulga (500 sq. m) in September 2000. The said buyers

immediately took possession of their respective portions and have long obtained their respective TCTs thereof.[22]

Margarito and Arnulfo Jecino[23] averred that Margarito acquired portions of Lot 4355 by way of grant (Margarito – Lot 4334-H) from the true owners of the property for the assistance he extended to them. Arnulfo, on the other hand, acquired a portion of Lot of said Lot (Lot 4335-E-2) through a deed of sale from the heirs of Ursula Doldol on May 27, 2008. The titles to their respective properties were issued pursuant to Decree No. 697562 which upheld their ownership.[24]

The answering defendants (herein appellees) alleged[25] in common that the ownership of Lot No. 4335 by Dionesio Doldol was formerly disputed in Civil Case No. 4236. The plaintiffs therein were the heirs of Dionesio Doldol, namely: Marcos, Emilia, Nicomedes, Ursula, Leonora, Marciana, Manuel, Antonio, Francisca and Honorato, all surnamed Doldol (Doldols) and the defendant was Encarnacion Enriquez Llamas.

In a decision dated October 1, 1970, promulgated by Honorable Judge Elias B. Asuncion, it was declared that the heirs of Dionesio Doldol were the true and absolute owners of Lot 4335 to the exclusion of Encarnacion Enriquez Llamas, the decretal whereof reads:

“IN VIEW OF THE FOREGOING CONSIDERATIONS, the court hereby renders judgment:

(1) xxx.

(2) Declaring the plaintiffs, as heirs of Dionisio Doldol, the true and absolute owners of Lot No. 4335, to the exclusion of the defendant, Encarnacion Enriquez Llamas, the registration of the land in the name of Ciriaco Enriquez having been made in fraud of the proprietary rights of Dionisio Doldol;

(3) Directing the defendant Encarnacion Enriquez Llamas, in Civil Case No. 4236 to reconvey Lot No. 4335 in favor of the plaintiffs by executing the proper instrument of reconveyance within thirty (30) days after the finality of this judgment, and in case of failure of the said judgment to execute such deed of reconveyance, directing the Clerk of Court of this court to execute the same for and in behalf of the said defendant, and thereafter directing the Register of Deeds of the City of Tacloban to cancel Transfer Certificate of Title No. T-2883 in the name of Encarnacion Enriquez Llamas and issue instead a transfer certificate of title in the name of the plaintiffs in Civil Case No. 4236 over lot No. 4335; and,

(4) xxx.”[26]

The aforequoted decision was affirmed by the Intermediate Appellate Court on March 30, 1983.[27] The case was elevated to the Supreme Court through a petition for review but it was denied by the Highest Court through a resolution dated September 21, 1983. It has become final and executory on January 3, 1984 per Entry of Judgment[28] rendered by the Supreme Court.[29]

Consequently, the Register of Deeds (RD) annotated an Entry in TCT No. T-2843 declaring that Lot No. 4335 has been adjudicated by a court decision to the Doldols per Entry No. 14266. The Entry was not found in the attached TCT No. T-2843 of the complaint filed by the appellant in this case. Appellant's copy of TCT No. T-2843 which was attached in the complaint only showed the front page and failed to exhibit the second page which was purposely done to avoid exhibiting Entry No. 14266.[30]

Further, the appellees alleged that there was no error committed by the RD when it issued TCT No. T-41255 in the name of the appellant corporation. The non-inclusion of Lot No. 4335 in TCT No. 41255 was appropriately done because it was no longer owned by Sps. Gaspar and Enriquez Llamas. Thus, TCT No. 41255 can be considered as a true and honest title in excluding Lot No. 4335 since it accounted only the properties truly owned by the appellant.[31]

The appellees further asserted that the decision in Cadastral Case No. 2007-07-36 from RTC, Branch 6, Tacloban City dated June 20, 2008 was erroneously promulgated since it was based on an incomplete TCT No. 2843 without Entry No. 14266. The RD of Tacloban City also made an error in issuing TCT No. T-69064 on August 26, 2008 by incorporating or re-entering Lot No. 4335 since the appellant had no ownership rights whatsoever over the said lot.[32]

Hence, the appellees interposed counterclaims for attorney's fees, appearance fee of their lawyers, moral damages, exemplary damages and litigation expenses.[33]

Defendants moved for a preliminary hearing of the case based on the affirmative defenses, and the court required the parties to submit their respective manifestation and counter-manifestation on this regard.[34]

On June 18, 2010, the RTC rendered the assailed Order[35] dismissing appellant's complaint on the grounds of res judicata, prescription and laches.

The appellant filed a Motion for Reconsideration[36] but it was denied by the RTC in an Order[37] dated September 1, 2010.

The appellant is now before this Court via Rule 41 of the Rules of Court interposing the following assignment of errors:

“I.

THE REGIONAL TRIAL COURT SERIOUSLY ERRED AND COMMITTED REVERSIBLE ERROR WHEN IT MISAPPRECIATED THE FACTUAL MILIEU TO INFER THAT PLAINTIFF MALICIOUSLY FILED THE INSTANT CASE, DRAGGING THE ANSWERING DEFENDANTS TO INCUR EXPENSES FOR ATTORNEY'S FEES, ETC.

II.

THE LOWER COURT SERIOUSLY ERRED IN GRANTING COUNTER-CLAIM IN FAVOR OF ANSWERING DEFENDANT VIVENCIO ESLOPOR II, WHO NEVER ALLEGED ANY SUCH COUNTER-CLAIM IN HIS ANSWER.

III.

THE REGIONAL TRIAL COURT SERIOUSLY ERRED AND COMMITTED REVERSIBLE ERROR WHEN IT GRANTED THE ANSWERING DEFENDANTS' COUNTER-CLAIMS AND ORDERING THE PLAINTIFF TO PAY EACH OF THE DEFENDANTS THE AMOUNT OF P30,000.00 AS ATTORNEY'S FEES, P1,500.00 FOR EVERY COURT APPEARANCE OF EACH OF THE DEFENDANTS' LAWYERS, LITIGATION EXPENSES OF P10,000.00 EACH AND EXEMPLARY DAMAGES OF P30,000.00 FOR EACH OF THE DEFENDANTS.”[38]

The Ruling of this Court

The appeal is bereft of merit.

Anent the first assignment of error, the appellant asseverated that the trial court committed reversible error because it misappreciated factual details when it ruled that the case was maliciously filed. The appellant argued that there is no evidence presented that would show that the corporation has knowledge beforehand, that it is not the real owner of the subject property. On the contrary, the acknowledgment receipt dated March 3, 1995 showed that the appellant had in its possession TCT No. 2843, which still contained Lot No. 4331 and 4335 (the property in issue), among other titles, which it submitted to the RD for issuance of new titles.

We are not persuaded.

In this case, it is patent from the records that when the appellant filed the complaint before the RTC, it merely appended the first page of TCT No. T-2843. It excluded the annotations of the said title including Entry No. 1426[39] dated March 25, 1971, which stated that Lot No. 4335 has been adjudicated in favor of Marcos, Emilia, Nicomedes, Ursula, Leonora, Marciana, Manuel, Antonio, Francisca & Honorato, all surnamed Doldol per court decision dated November 11, 1968. The veracity of the said entry was never contested. The appellant cannot claim lack of knowledge thereof because it was annotated at the title and it serves as notice to the whole world. It should be stressed that appellants blatant attempt to mislead the court is not only malicious but likewise a contemptuous conduct that We sternly condemn.

Significantly, Section 52 of PD 1529 states:

“SEC. 52. Constructive notice upon registration. - Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering.” (Emphasis Ours)

In the case of *Armed Forces and Police Mutual Benefit Association, Inc. vs. Santiago*[40], the Supreme Court categorically held that “xxx the act of registration is the operative act to convey or affect the land insofar as third persons are concerned. Constructive notice is also created upon registration of every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land.”

Anent the second assignment of error, the appellant contended that trial court seriously erred in granting counterclaim in favor of Vivencio Eslopor II (Vivencio) since the latter never alleged any such counterclaim in his answer.

We are not also persuaded.

Although there is no specific subtitle for counterclaim found in Vivencio's Answer, it is however patent from the averments stated in his answer including the prayer portion thereof, viz:

“xxx.

b. Plaintiff's course of action of filing the complaint in the above-entitled case and sending the defendant a Notice to Vacate have unduly vexed said defendant causing unwarranted stress, sleepless nights and loss of valuable time and effort for other concerns.

c. Defendant, in order to protect his rights, have to resort to assistance of legal counsel with expenses measured at:

a. Acceptance Fee of P20,000

b. Appearance Fee of P1,500 per hearing until conclusion

c. Cost of Litigation at P20,000

P R A Y E R

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that judgment be rendered in favor of the defendant;

xxx.

D. ORDERING plaintiff to pay the defendant the following litigation expenses:

- a. Acceptance Fee of P20,000
- b. Appearance Fee of P1,500 per hearing until conclusion
- c. Cost of Litigation at P20,000

E. ORDERING plaintiff to pay MORAL DAMAGES of P20,000 for the sleepless nights and unequalled vexation experienced by the defendant due to the fraudulent attempt of the plaintiff to encroach upon and wrest away valid ownership of the subject lot from the defendant.

F. Other relief just and equitable under the foregoing premises deemed by this Honorable Court are likewise prayed for.

SO PRAYED.[41]” (Bold letters in the original)

Thus, the appellant's contention is belied by the above-quoted portion of Vivencio's Answer. Contrary to appellant's assertion, it is clear that the latter indeed alleged and prayed for the items of damages awarded by the trial court.

Regarding the third assignment of error proffered by the appellant, We find that it also lacks merit. The award of attorney's fees and litigation expenses pronounced by the court a quo is based on established facts and it is in accordance with Article 2208[42] of the Civil Code[43].

Lastly, We also affirm the award of exemplary damages in favor of the appellees since it is within the contemplation of Article 2229 of the Civil Code.

WHEREFORE, the appeal is DENIED. The Order dated June 18, 2010 rendered by the Regional Trial Court (RTC), Branch 9, Tacloban City in Civil Case No. 2009-01-05 is hereby AFFIRMED in toto.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[1] Records, pp. 741-754, penned by Judge Rogelio C. Sescon.

[2] The prayer portion of the appellant's brief stated June 28, 2010.

[3] Records, pp. 1-5.

[4] Hereinafter referred to as appellant.

[5] Hereinafter referred to as appellees.

[6] Records, Records, pp. 8-9.

[7] Records, pp. 11-13.

[8] Records, p. 14.

[9] Records, pp. 15-25.

[10] Complaint, supra note 3 (at p. 2).

[11] Records, p. 27.

[12] Records, p. 28.

- [13] See Complaint, *supra* (at pp. 2-3).
- [14] Records, pp. 29-32.
- [15] Records, pp. 33-54.
- [16] Complaint, *supra* (at p. 3).
- [17] Culled from the assailed Order, *supra* note 1 (at p. 743); See also Answer of Vivencio Eslopar, Records pp. 61-66.
- [18] Spelled as Madiro in some portion of the assailed Order.
- [19] Spelled as Saldevia in the assailed Order.
- [20] Culled from the assailed Order, *supra* note 1; See also Answer of defendants Francisco and Mario Baldevia, Records, pp. 79-84.
- [21] Erroneously typed as “5,56 sq. m.” in the assailed Order.
- [22] Culled from the assailed Order, *supra* note 1; See also Answer of defendant Virginio A. Astilla, Records pp. 96-110.
- [23] Erroneously spelled as Jacino in the assailed Order.
- [24] Culled from the assailed Order, *supra* note 1; See also Answer of defendants Margarito and Arnulfo Jecino, Records, pp. 129-138.
- [25] Culled from the assailed Order, *supra* note 1.
- [26] Quoted from the Order of the RTC, Branch VII, Leyte Government Center, Palo Leyte dated May 24, 1984 in Civil Case No. 4236, Records, pp. 142-143.
- [27] *Id.*, See also Answer of Virginio Astilla, Records, pp. 96-110 (at p. 101).
- [28] Records, p. 113.
- [29] Culled from the Answer of Virginio Astilla, Records, pp. 96-110 (at p. 102).
- [30] Culled from the assailed Order, *supra* note 1.
- [31] *Id.*
- [32] *Id.*
- [33] *Id.*
- [34] Culled from the Appellant's Brief, Rollo, pp. 19-35 (at p. 25).
- [35] *Supra* note 1.
- [36] Records, pp. 755-758.
- [37] Records, p. 787.
- [38] Quoted from the Appellant's Brief, Rollo, pp. 19-35 (at p. 27).
- [39] Records, p. 93 (back portion).

[40] G.R. No. 147559, June 27, 2008.

[41] Quoted from the Answer of Vivencio Eslopor II, Records, pp. 61-66 (65-66).

[42] Art. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

[43] Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

(1) xxx.

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

xxx.

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

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