

LUZVIMINDA O. NARBONETA, PLAINTIFF-APPELLANT, VS. SOTERA N. OBANI, DEFENDANT-APPELLEE.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal seeks to nullify the Order[1] dated September 5, 2005, rendered by the Regional Trial Court (RTC), Branch 10, San Jose, Antique in Civil Case No. 2005-2-3486, the dispositive portion whereof is hereunder quoted:

“In view of the foregoing, defendant, having shown that the cause of action in this case is barred by prior judgment and that a condition precedent for filing the claim has not been complied with, the Motion to Dismiss filed by defendant through counsel is hereby granted and this case is DISMISSED.

SO ORDERED.”

Stripped of non-essentials, the facts are:

The instant case stemmed from a Complaint[2] dated February 2, 2005, filed by plaintiff-appellant, Luzviminda O. Narboneta (appellant) against defendant-appellee, Sotera N. Obani (appellee) for Damages docketed as Civil Case No. 2005-2-3486.

In her complaint appellant alleged that she is the owner of a piece of land, known as Lot 1459 located in Igdalaguit, Tobias Fornier, Antique covered by Original Certificate of Title (OCT) No. 14903 under the name Heirs of Felix Obani. She inherited the property from his father, Felix Obani.[3]

The appellee is her sister-in-law, being the wife of her older brother, the late Melicio. Her deceased brother also inherited a piece of land from their parents which adjoins appellant's land on the east. It is designated as Lot No. 1460 under OCT No. N-10229 registered under the name of heirs of Melicio Obani. The appellee, being the surviving spouse of Melico, inherited an undivided portion of lot 1460.[4]

In November 1996, appellee caused a relocation survey on Lot 1460. The survey showed that 1,800 sq. m. of the eastern side of appellant's land fell within the coverage of Lot 1460 based on the technical description of the title. Evidently, this was a result of an erroneous cadastral survey. Upon knowing the result of the survey, the appellee laid claim to the 1,800 sq. m. portion of appellant's land despite the fact that she had never physically possessed even a square meter portion of the area at any time.[5]

Thus appellee filed a civil case against the appellant before the Municipal Circuit Trial Court (MCTC) of Tobias Fornier-Hamtic-Anini-y, Antique. She sought to recover the 1,800 sq. m. portion of land which she claimed to be part of Lot 1460.[6]

The MCTC decided in favor of the appellee. The appellant interposed an appeal but it was affirmed by the RTC.[7] Aggrieved, the appellant filed a petition for review with the Court of Appeals. On October 8, 2004, the Court of Appeals rendered a decision in favor of the appellant, the dispositive portion whereof, reads:

“WHEREFORE, in view of the foregoing premises, the court resolves to GRANT this petition, finding for the

petitioner and against the respondents.

Consequently, the decision of the Regional Trial Court, Br. 11 of San Jose, Antique in Civil Case No. 2001-03-3237 which affirmed the decision of 1st MCTC in Civil Case No. 213-TF is hereby REVERSED AND SET ASIDE and in lieu thereof, judgment is hereby rendered as follows:

1. Directing the respondents to reconvey to the Heirs of Felix Obani, represented by the petitioner, the disputed 1,800 square meters which is erroneously included in Lot No. 1460 covered by OCT No. N-10229 under the name of the Heirs of Melicio Obani.
2. No pronouncement as to the claim for damages.

Costs de oficio.[8]”

The appellant, thus averred, that she suffered actual and moral damages because of the appellee's wrongful act. The appellee is liable for damages based on quasi-delict and for violating the law on Human Relations as provided under Article 19 of the Civil Code.[9]

In response, the appellee filed a Motion to Dismiss[10] on March 28, 2005, anchored on two grounds:

1. That the cause of action is barred by prior judgment.
2. That a condition precedent for filing the claim has not been complied with.

On September 5, 2005, the RTC rendered the assailed Order[11] dismissing appellant's complaint.

On September 28, 2005, the appellant filed a Motion for Reconsideration[12] but it was likewise denied by the RTC in an Order[13] dated October 25, 2006.

Hence, the appellant is now before this Court via the instant appeal, interposing the following assignment of errors:

I.

THE LOWER COURT ERRED IN HOLDING THAT THIS CASE IS BARRED BY RES JUDICATA.

II.

THE LOWER COURT ERRED IN DISMISSING THE CASE ON THE GROUND THAT IT DID NOT PASS THE BARANGAY CONCILIATION.[14]

The Ruling of this Court

The appeal is meritorious.

After a judicious perusal of the records of this case, We are inclined to rule in favor of the appellant considering that the motion to dismiss filed by the appellee was never substantiated with competent evidence. We find it a reversible error for the trial court to grant the motion to dismiss based only on the unsubstantiated allegations of the appellee.

In the motion to dismiss the appellee alleged that in Civil Case No. 214-TF, the appellant filed a counterclaim praying for damages in the amount of P50,000.00[15]. However, the Court cannot verify said allegation since the appellee failed to attach a copy of the counterclaim in her motion to dismiss or even in any portion of the records of this case. Likewise, the appellee claimed that the instant complaint is already barred by the judgment of this Court in CA-G.R. SP. No. 69520 which has already become final and executory[16] but however no copy of the said decision was even appended in the records of this case. It seems that the trial court merely based the assailed

order on the allegations of the Motion to Dismiss filed by the appellee and nothing more since there are no documentary evidence attached thereto as proof of her averments. It should be stressed that mere allegations are not proof.

Significantly, Sec. 2, Rule 16 of the Rules of Court[17] requires not only a hearing but also submission of arguments and evidence for the resolution of a motion to dismiss, thus:

“Sec. 2. Hearing of motion. - At the hearing of the motion, the parties shall submit their arguments on the questions of law and their evidence on the questions of fact involved except those not available at that time. Should the case go to trial, the evidence presented during the hearing shall automatically be part of the evidence of the party presenting the same.” (Emphasis Ours)

When the instant case was called for hearing on April 8, 2005, the counsel of both parties failed to appear before the trial court. Nonetheless, the court a quo rendered an Order[18] declaring the motion to dismiss as submitted for decision and went on to dismiss the case in the assailed Order[19] sans any evidence presented by the appellees.

In the case of *Capiral v. Robles*[20], the Supreme citing *Rimbunan Hijau Group of Companies v. Oriental Wood Processing Corporation*[21] ruled that a motion to dismiss should be determined in accordance with the evidence and facts presented and not on the basis of unsubstantiated allegations, thus:

“In *Rimbunan Hijau Group of Companies v. Oriental Wood Processing Corporation*, this Court had occasion to rule that the issues raised in a motion to dismiss have to be determined in accordance with the evidence and facts presented, not on the basis of unsubstantiated allegations and that the courts could not afford to dismiss a litigant's complaint on the basis of half-baked conclusions with no evidence to show for it. In emphasizing the need for a formal hearing, this Court held that the demand for a clear factual finding to justify the grant or denial of a motion to dismiss cannot be dispensed with. To this end, Section 2, Rule 16 of the Rules of Court allows not only a hearing on the motion to dismiss, but also for the parties to submit their evidence on the questions of fact involved, which may be litigated extensively at the hearing or hearings on the motion. During the said hearings, the parties are allowed to submit their respective evidence, and even rebut the opposing parties' evidence. The hearings should provide the parties the forum for full presentation of their sides. Moreover, from the trial court's perspective, the extent of such hearings would depend on its satisfaction that the ground in filing the motion to dismiss has been established or disestablished.”

Given the above noted circumstances, We deem it appropriate to remand the case to the trial court. We find it erroneous for the trial court to dismiss the case, at this stage of the proceeding, considering that no evidence was presented at all by the appellee to substantiate her allegations in the motion to dismiss.

Also, regarding the ground of failure to comply with condition precedent, We hold that the Certification to File Action[22] attached by the appellant in her motion for reconsideration[23] substantially satisfies the requirement since it involves same parties (*Sotera Obani and Luzviminda O. Narboneta*) and it is rooted on substantially the same controversy.

WHEREFORE, the appeal is hereby GRANTED. The Order dated September 5, 2005, rendered by the Regional Trial Court (RTC), Branch 10, San Jose, Antique in Civil Case No. 2005-2-3486 is VACATED and SET ASIDE. The records of this case are REMANDED to the Regional Trial Court for further proceedings.

SO ORDERED.

Ingles,[*] and Lopez, JJ., concur.

[*]Vice Justice Delos Santos who is on wellness leave per Office Order No. 13-14-GTI dated June 17, 2014.

[1] Rollo, p. 31, penned by Judge Sylvia G. Jurao.

[2] Records, pp. 1-5.

[3] Complaint, id. (at p.1).

[4] id.

[5] id., (p. 2).

[6] id.

[7] id., at (p. 3).

[8] Quoted from the Complaint, id.

[9] Complaint, id (at pp. 3-4).

[10] Records, pp. 8-13.

[11] Supra note 1.

[12] Records, pp. 16-17.

[13] Records, p. 23.

[14] Culled from the appellant's brief, Rollo, pp. 17-29 (at p. 21).

[15] Culled from the Motion to Dismiss, Records, pp. 8-13.

[16] Id.

[17] Infra.

[18] Records, p. 14.

[19] Supra note 1.

[20] G.R. No. 173628, November 16, 2011.

[21] G.R. No. 152228, September 23, 2005, 470 SCRA 650.

[22] Records, p. 18.

[23] Records, pp. 16-17.

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