

**FEDERICO DELA CRUZ, CORAZON MALLARI, ROQUE
UGAYONG, RUBEN ALFARO AND JOSE PASION, HEREIN
REPRESENTED BY THEIR ATTORNEY-AND IN-FACT, SONIA INFANTE,
PETITIONERS, VS. ALFREDO DUEÑAS,...**

Ponente: BARRIOS, J.

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BARRIOS, J.

The respondent Alfredo Dueñas, Sr. (or hereafter Dueñas) sued the petitioners Federico dela Cruz, Corazon Mallari, Roque Bugayong, Ruben Alfaro and Jose Pasion (or hereafter petitioners) for Recovery of Possession with Damages before the Municipal Trial Court of Tarlac City (or MTCC). The Decision was adverse to the petitioners who appealed to the Regional Trial Court (or RTC) of the same place. The RTC affirmed the MTCC ruling. Hence this appellate recourse to Us with the petitioners positing these issues:

I

WHETHER OR NOT THE RTC OF TARLAC CITY ERRED IN AFFIRMING THE RENDITION OF SUMMARY JUDGMENT IN THIS CASE BY THE MTC OF TARLAC CITY.

II

WHETHER OR NOT THE RTC TARLAC CITY, IN AFFIRMING THE DECISION OF THE MTC OF TARLAC CITY, ERRED WHEN IT FOUND THE RESPONDENT TO ENJOY A BETTER RIGHT TO POSSESS THE SUBJECT PROPERTY. (pp. 13-14, rollo)

In his complaint, Dueñas averred that he is the registered owner of that 2,010 square meters Lot 1-B in Barrio Balincanaway, Tarlac, Tarlac covered by Transfer Certificate of Title No. 308057. Claiming that they have a better right over the subject property, the petitioners occupied this without the consent of Dueñas. Demands made to vacate and restore were futile, hence the filing of the suit for recovery of possession.

In their traverse, the petitioners asseverated that the subject lot was formerly a part of the Cojuangco estate and this was acquired by the government for redistribution to the actual occupants pursuant to the agrarian reform program. Dueñas who was then the barangay captain of Balincanaway and tasked to identify the actual occupants of the subdivided lot, in utter bad faith listed the subject lot as part of his farm holding. An Emancipation Patent and Original Transfer Certificate of Title No. 6678 were thus issued in Dueñas' name on August 26, 1997. Barely three (3) months after the issuance of the emancipation patent on October 30, 1997, Dueñas succeeded in canceling OCT No. 6678 and in lieu thereof Transfer Certificate of Title 299615 was issued. Dueñas thereafter sold this lot to Nature Realty and Development Corporation (or Nature Realty) and so his TCT No. 299615 was cancelled and TCT No. 300418 was issued in the name of Nature Realty. In 1998 Nature Realty reconveyed this lot to Dueñas, hence a new TCT No. 308057 was issued in the name of Dueñas again.

The petitioners further alleged that Dueñas never possessed or cultivated the subject lot and claimed that they have a better right to possess this. Also, they moved to dismiss the complaint on ground of lack of jurisdiction and

litis pendentia. In the alternative, the petitioners moved to suspend the proceedings on ground of prejudicial question.

During the pre-trial conference, the petitioners made the following admissions: (i) the lot in question is covered by TCT No. 308057 in the name of Dueñas; (ii) the property is covered by Tax Declaration also in the name of Dueñas and petitioners never declared the property for taxation purposes; and (iii) the case filed before the DARAB had been dismissed and the petitioners did not appeal nor move for its reconsideration rendering the decision final and executory.

In view of these admissions, Dueñas moved for summary judgment which was granted by the MTCC on November 13, 2001 decreeing that:

WHEREFORE, premises considered, defendants FEDERICO DELA CRUZ, CORAZON MALLARI, ROQUE BUGAYONG, RUBEN P. ALFARO and JOSE PASION, their agents, successors-in-interest, or any persons acting in their behalves are directed to vacate the premises in question, remove their respective improvements and restore possession thereof to the plaintiff. Each defendant are likewise directed to pay plaintiff the amount of P200.00 a month from the time of their refusal to vacate up to the time possession is fully restores to plaintiff. Defendants are further directed to pay plaintiff the amount of P10,000.00 as attorney's fees.

SO ORDERED. (p. 55, rollo)

From this, the petitioners appealed to the RTC which however affirmed in toto the appealed Decision. A motion for its reconsideration was filed but floundered.

In this appellate recourse, the petitioners insist that summary judgment is inappropriate to resolve the case at bar, arguing that they raised genuine and material factual matters which they should have been allowed to prove at a trial. Summary judgment is a procedural device for the prompt disposition of actions in which the pleadings raise only a legal issue, and not a genuine issue as to any material fact. By genuine issue is meant a question of fact that calls for the presentation of evidence. It should be distinguished from an issue that is sham, contrived, set in bad faith and patently unsubstantial. It is resorted to in order to avoid long drawn out litigations and useless delays (Puyat vs. Zabarte, G. R. No. 141536, February 26, 2001).

For summary judgment to be valid, Rule 35, Section 3 of the Rules of Court, requires (a) that there must be no genuine issue as to any material fact, except for the amount of damages; and (b) that the party presenting the motion for summary judgment must be entitled to a judgment as a matter of law (Puyat vs. Zabarte, supra).

It should be emphasized that the only issue to be resolved in this action to recover possession of the subject property is the question of who is entitled to the physical or material possession of the premises (Acosta vs. Enriquez, G. R. No. 140967, June 26, 2003). In this case, the petitioners admitted that the subject lot was titled and declared for taxation purposes in the name Dueñas. Also, they admitted that they never paid the realty taxes for the said lot and that the case they filed with the DARAB had already been dismissed and the dismissal already attained finality.

It is well settled that a person who has Torrens title over the property is entitled to the possession thereof (Apostol vs. Court of Appeals, G. R. No. 125375, June 17, 2004). Accordingly, whatever right of possession the petitioners may have over the subject property cannot prevail over that of Dueñas as the registered owner of the property in dispute. The MTCC thus properly resolved the case through summary judgment and the courts a quo cannot also be faulted in granting the relief that Dueñas had prayed for.

The alleged invalidity of Dueñas' title is not a hindrance to the recovery of the possession from the petitioners. As

correctly ruled by the courts a quo, a certificate of title is not subject to collateral attack. Hence the issue of whether a title was procured by falsification or fraud should be raised in an action expressly instituted for the purpose (*Foster-Gallego vs. Galang*, G.R. No. 130228, July 27, 2004). Also, if a property covered by a Torrens title is involved as in this case, the presumptive conclusiveness of such title should be given due weight, and in the absence of strong compelling evidence to the contrary, the holder thereof should be considered the owner of the property in controversy until his title is nullified in an appropriate ordinary action (*Pacioles Jr. vs. Chuatoco-Ching*, G. R. No. 127920, August 9, 2005). Being the registered owner, Dueñas thus acquired and has a better right to the possession of the subject lot.

Because the RTC and for that matter the MTCC committed no reversible error in rendering the assailed Decision

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WHEREFORE, the petition is DENIED DUE COURSE and accordingly DISMISSED.

SO ORDERED.

Guariña III and Romilla-Lontok, JJ., concur.

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