

**PAZ PEREZ ORANTES, PRIMITIVA DELA CRUZ-ABARRA, HEIRS OF
ESTER P. BALTAZAR-VILLANUEVA AND ANITA P.
BALTAZAR-BUNUAN, PLAINTIFFS-APPELLEES, VS. JULIETA IGADUA,
DOMINGO MADDAWAT, JU...**

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

For evaluation on appeal before Us was the disposition on December 4, 2008 of the Regional Trial Court, Branch 28, Bayombong, Nueva Vizcaya in Civil Case No. 5998, which, among other matters, directed appellants and their successors-in-interest, agents, privies and representatives to relinquish possession of the subject realty to appellees.[1]

On October 8, 2008, a suit for accion publiciana was commenced below by Paz B. Perez-Orantes, Primitiva Dela Cruz-Abarra, the Heirs of Ester P. Baltazar-Villanueva and Anita P. Baltazar-Bunuan against appellants Julieta Igadua, Domingo Maddawat, Juan L. Canlang, Edgardo C. Lasam, Augusto R. Torres, Ernesto M. Villanueva, Maximo V. Rivera, Angelito L. Esguerra, Fernando S. Flores, Dominador Gutierrez, Cynthia T. Pineda, Gaston Buhwilon, Tony Agmaliw, Reynaldo Molina, Lerna Flores, Nestor Florez, Cesar Dominguez, Serion Cabbigat, Lourdes Dolinin, Cema Talapi, Elnora Dulnuan, Tony Kingay, Dupig Kingay, Bernadeth Dinumla, Josekin Maddawat, Menci Agmaliw, David Buyaya, Joseph Doweh-e, Carlos Igadua, Noli Tino, Joel Dacawe, George Gumangan, Eusebio Guives, Geronimo Pael and Danilo Flores.[2]

The subject matter of the Complaint were four 4 lots located at Upper Magsaysay (Masoc), formerly a portion of Busilac, Bayombong, Nueva Vizcaya[3] registered in the name of four sisters namely: (1) Anita P. Baltazar-Bunuan (OCT No. P-1541); (2) Ester P. Baltazar-Villanueva (OCT No. P-1579); (3) Paz Baltazar Perez-Orantes (OCT No. P-1562); and (4) Primitiva De la Cruz Abarra (OCT No. P-1934).[4] Appellees alleged as cause of action inter alia therein that:[5]

“ . . . x x x

3. The above-described parcels of land were formerly devoted to pastureland by plaintiffs;

4. However, in the year 1984 when the problem of insurgency in the province has worsened such that cows are butchered in pasturelands, prominent public officials are kidnapped and killed, lands specifically those devoted to pasturelands are squatted upon, plaintiffs lost interest in their cattle business and were afraid to go to the land in question.

5. As the insurgency problem became alarmingly critical, defendants, who came from nearby provinces, through force, intimidation and violence, entered and squatted on the above-described properties of plaintiffs one after the other growing in numbers as the years passed by, built temporary shelters, planted fruit-bearing trees and vegetables thereon. A very recent incident of the retired professor whose land is situated in the same place was shot in the lower jaw when he went there to visit his land.

6. Plaintiffs, believing that peace and order in the province has now vastly improved, decided to bring this problem to the office of the Barangay Captain concerned for conciliation and dialogue with the defendants, who, instead of agreeing to vacate the lands and surrender possession thereof to plaintiffs, have threatened and

intimidated herein plaintiffs. Hence, conciliation proceedings failed and a Certification to file action was issued
xxx

7. Plaintiffs were deprived of the use and cultivation of their properties and consequence, they were deprived of the income therefrom estimated to be P50,000 yearly.”

Appellants’ Answer averred: (1) possession since 1985;[6] (2) that plaintiffs have never gone to the land in question since appellants have fully started cultivating the land since 1985 to the present;[7] (3) they occupied the land with the consent of the barangay officials of the place because they knew that it was idle as there were no cows roaming the land;[8] (4) there was no insurgency problem in the area, otherwise they could not have gone there in the first place;[9] (5) the climate in the area was calm (sic) cozy among the people;[10] and (6) there was a friendly atmosphere and tranquility pervades among the people thereat.[11]

As Special and Affirmative Defenses, appellants asserted that they had been occupying the land without any disturbance from third persons. According to appellants, they also petitioned the government, through their congressman, to give them priority in the distribution of the land they were occupying as members of national cultural communities. Moreover, appellants contended that no less than the Department of National Defense acted on their petition to award the idle lands in their favor. Finally, they claimed that on February 27, 1990, the Secretary of Agriculture had taken a hand on the matter and that the Office of the President, through a letter dated March 29, 1990, advised appellants to continue with the improvement and development of the subject lots as potential sources of rice, vegetables, and fruit trees.[12]

On February 15, 1996, an injunction ensued against the Department of Public Works Provincial Office of Bayombong Nueva Vizcaya and/or the District Engineer from proceeding with the construction of a water system for appellants and from installing the G.I. Pipes on appellees’ pieces of property.[13]

Subsequently, in regard to the prospect of a dismissal sought by appellants, the Order of August 23, 1998 from the trial court rejected appellants’ Omnibus Motion to Dismiss because it was filed after appellants filed their Answer.[14]

Following pre-trial conference, during which occasion issues were crafted,[15] trial ensued.

Essentially, the evidence adduced by appellees revolved on the four titles over the pieces of property, tax declarations, exercise of dominion over the subject parcels of land and appellees’ possession which culminated in the formal offer of documents.[16]

By contrast, appellants’ version did not contest possession and they also demonstrated acts of ownership over the parcels of land which they believed to be public lands. They, too, presented pieces of documents as evidence.[17]

Cutting through minutiae, a relocation survey was decreed per the Order of August 30, 2005 and in keeping with *Jonel Rivera et al. vs. Jose Dulnuan, et al.* in CA-G.R. CV No. 71317,[18] and the relocation survey was admitted on April 24, 2008.[19]

Subsequently, the trial court rendered judgment which declared that legal ownership of the subject parcels of land belonged to appellees:[20]

“1.

The Defendants and their successors-in-interest, agents, privies and representatives to peacefully vacate the properties in question.

2.

The removal of whatever improvements introduced by the defendants.

3.

The delivery of peaceful possession thereof to the plaintiffs.

The provisions of the Urban Development and Housing Act of 1992 on demolition and eviction should be strictly followed.

4.

For plaintiffs to pay additional filing fees. Plaintiffs initially paid a total filing fee of Php 2,341.00. Thus, the plaintiffs are assessed an additional amount of Php 7023.00 to cover the deficiency.

SO ORDERED.”

Hence, the instant appeal was elevated to Us based on the following ascriptions:[21]

1)

...IN NOT DISMISSING THE CASE FROM THE VERY BEGINNING ON THE GROUND THAT IT IS THE LAWYER OR COUNSEL WHO SIGNED THE CERTIFICATE OF NON FORUM SHOPPING;

2)

...IN NOT DISMISSING THE CASE FROM THE VERY BEGINNING ON THE GROUND THAT PLAINTIFFS WHO ARE ALLEGEDLY INDIVIDUAL OWNERS OF DIFFERENT PROPERTIES WITH SEPARATE TITLES JOINTLY SUED DEFENDANTS; RENDERING EACH DEFENDANT TO FACE ALL THE FOUR PLAINTIFFS INSTEAD OF ONLY FACING ONE PLAINTIFF;

3)

...IN RE-OPENING THE CASE FOR TRIAL FOR THE PRESENTATION OF PLAINTIFFS'-APPELLEES EVIDENCE AFTER THE CASE HAS BEEN LONG SUBMITTED FOR RESOLUTION AND DESPITE VIGOROUS OBJECTION FROM THE DEFENDANTS; THEREBY SHOWING MANIFEST BIAS IN FAVOR OF THE PLAINTIFFS AND MOCKING THE RULES OF COURT;

4)

...IN CONSIDERING THE ADMISSION MADE BY THE DEFENDANTS' FORMER COUNSEL EVEN IF THE SAME IS PROVED TO BE UNAUTHORIZED AND THAT THE SAME IS INCOMPETENT ADMISSION;

5)

THE COURT A QUO MANIFESTLY SHOWED BIAS FROM THE VERY BEGINNING UNTIL THE RENDITION OF DECISION;

6)

...IN DECIDING THE CASE IN FAVOR OF THE PLAINTIFFS INSTEAD OF DISMISSING THE CASE AS THE PLAINTIFFS MANIFESTLY FAILED TO PROVE THEIR CASE.

THIS COURT'S RULING

Before We delve into the substantive issue of the appeal insofar as sufficiency of the evidence, a few procedural matters will have to be settled.

First Procedural Issue:

Plaintiffs'-Appellees' Certificate of Non-Forum Shopping

Appellants questioned the validity of appellees' certificate of non-forum shopping because it was signed by appellees' counsel in contravention of Section 5, Rule 7 of the 1997 Rules of Civil Procedure.[22]

It must be underscored that when appellees filed their Complaint for Accion Publiciana with Damages on July 4, 1995,[23] the 1964 Rules of Civil Procedure was prevailing and there was no requirement then regarding the filing of a certification of non-forum shopping. However, Administrative Circular No. 04-94, which was already in effect when appellees filed their Complaint, required the submission of a certification on non-forum shopping in the filing of Complaints, Petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals, thusly:

ADMINISTRATIVE CIRCULAR NO. 04-94
February 8, 1994

X X X

Revised Circular No. 28-91, dated February 8, 1994, applies to and governs the filing of petitions in the Supreme Court and the Court of Appeals and is intended to prevent the multiple filing of petitions or complaints involving the same issues in other tribunals or agencies as a form of forum shopping.

Complementary thereto and for the same purpose, the following requirements, in addition to those in pertinent provisions of the Rules of Court and existing circulars, shall be strictly complied with in the filing of complaints, petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals and shall be subject to the sanctions provided hereunder.

1. The plaintiff, petitioner, applicant or principal party seeking relief in the complaint, petition, application or other initiatory pleading shall certify under oath in such original pleading, or in a sworn certification annexed thereto and simultaneously filed therewith, to the truth of the following facts and undertakings: (a) he has not the same issue in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (b) to the best of his knowledge, no such action or proceedings is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (c) if there is any such action or proceeding which is either pending or may have terminated, he must state the status thereof; and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, he undertakes to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed.

The complaint and the initiatory pleadings referred to and the subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) party complaint, or complaint-in-intervention, petition, or application wherein a party asserts his claim for relief.

2. Any violation of this Circular shall be a cause for the dismissal of the complaint, petition, application or other initiatory pleading, upon motion and after hearing. However, any clearly willful and deliberate forum shopping by any party and his counsel through the filing of multiple complaints or other initiatory pleadings to obtain favorable action shall be a ground for summary dismissal thereof and shall constitute direct contempt of court. Furthermore, the submission of false certification or non-compliance with the undertakings therein, as provided in Paragraph 1 hereof, shall constitute indirect contempt of court, without prejudice to disciplinary proceeding against the counsel and the filing of a criminal action against the guilty party.

This Circular shall take effect on April 1, 1994.

X X X

Even then, application of the foregoing axiom from the Supreme Court will be of no legal significance inasmuch as no Motion for the dismissal below was filed by appellants as required by Section 2 thereof, which observation jibed with the similar requirement in Section 5, Rule 7 of the 1997 Rules of Civil Procedure.

Second Procedural Issue:

Appellee's apparent Misjoinder of Parties

Anent appellants' next argument, it is enough to reiterate that neither misjoinder nor non-joinder of parties can cause dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. If there is any claim against a party misjoined, it may be severed and proceeded with separately.[24] Indeed, misjoinder of parties does not involve questions of jurisdiction[25] and appellants only raised this issue for the first time on appeal.[26]

Third Procedural Issue:

Re-opening of the case

Neither can We decipher reversible fault when the trial court decreed a reopening of the case after it has long been submitted for resolution. While it is true that Section 5, Rule 30 of the 1997 Rules of Civil Procedure, as amended, prescribed an order of trial, deviation from prescribed regulation can hardly be construed as an abomination. A contrario, such exercise of the faculty conferred upon every Magistrate[27] blended with Justice Jose Y. Feria's commentaries in civil procedure:[28]

"After the parties have produced their respective direct proofs, they are allowed to offer rebutting evidence only, but, it has been held, the court, for good reasons in the furtherance of justice, may permit them to offer evidence upon their original case, and its ruling will not be disturbed in the appellate court where no abuse of discretion appears. So, generally, additional evidence is allowed when it is newly discovered, or where it has been omitted through inadvertence or mistake, or where the purpose of the evidence is to correct evidence previously offered."

Fourth Procedural Issue:

Admission of Counsel During Pre-Trial

It is also hornbook doctrine that the authority of an attorney to bind his client as to any admission of facts made by him is limited to matters of judicial procedure. An admission which operates as a waiver, surrender, or destruction of the client's cause is beyond the scope of the attorney's implied authority.[29]

While We agree with appellants that the admission made by their former counsel during pre-trial, i.e. that the parcels of land in question were titled in the name of appellees,[30] was prejudicial to their cause, and even as We ignore the net effect of the admission in judicio, there was other evidence on record in appellees' favor which will hereafter be synthesized.

Having thus settled procedural matters in the instant case, We now proceed to resolve the issue concerning the adequacy of appellees' evidence.

In accion publiciana, the principal issue is possession, and ownership is merely ancillary thereto. Only in cases where possession cannot be resolved without resolving the issue of ownership may the trial court delve into the claim of ownership. In the present case, appellees presented their respective titles to the realty in question since 1955 and 1956 for Primitiva Dela Cruz-Abarra.[31] These titles were never cancelled.[32] As registered titleholders, appellees are entitled to possession thereof.[33] We reiterate *Urieta Vda. De Aguilar v. Spouses Alfaro*,[34] thusly:

It is settled that a Torrens title is evidence of indefeasible title to property in favor of the person in whose name

the title appears. It is conclusive evidence with respect to the ownership of the land described therein. It is also settled that the titleholder is entitled to all the attributes of ownership of the property, including possession. Thus, in *Arambulo v. Gungab*, this Court declared that the “age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof.”

WHEREFORE, premises considered, the assailed December 4, 2008 Decision of the Regional Trial Court (RTC), Branch 28 of Bayombong, Nueva Vizcaya in Civil Case No. 5998 is hereby **AFFIRMED**.

SO ORDERED.

De Leon, M.M., (Chairperson), and Cruz, S.C., JJ., concur.

[1] Rollo, pp. 117-118.

[2] Record, page 1.

[3] Id., page 2

[4] Plaintiffs'-Appellees' Brief, Rollo, page 128.

[5] Record, pp. 2-3.

[6] Id., page 13.

[7] Id.

[8] Record, page 13.

[9] Id., page 14.

[10] Id.

[11] Id., page 14; See also Decision, Rollo, page 113.

[12] Id., page 15.

[13] Id., page 38.

[14] Record, page 70.

[15] Id., page 83.

[16] Id., pp. 148-150.

[17] Id., pp. 210-211.

[18] Id., page 244.

[19] Id., page 262.

[20] See Decision dated December 4, 2008, Rollo page 112.

[21] See Defendants-Appellants' Brief, Rollo, pp. 96-97.

[22] Rollo, page 102

[23] Dated July 4, 1995, received by OCC on July 4, 1995, Record, page 1.

[24] Riano, Civil Procedure, (The Bar Lectures Series) Vol .1, 2011 ed., pp. 244-245 citing Sec. 11, Rule 3, Rules of Court; Almendras v. Court of Appeals, 293 SCRA 540, 545.

[25] Riano, Civil Procedure, (The Bar Lectures Series) Vol .1, 2011 ed., page 245 citing Republic v. Herbierto, 459 SCRA 183, 195.

[26] Zenaida Polanco, et al. v. Carmen Cruz, G.R. No. 182426, February 13, 2009.

[27] Republic of the Philippines v. The Honorable Sandiganbayan (Second Division), et al., G.R. No 159275, August 25, 2010.

[28] Id.

[29] People v. Hermanes, G.R. No. 139416, March 12, 2002 citing (People vs. Maceda, 73 Phil. 679 [1942]).

[30] See Pre-Trial Order dated March 11, 1999, Record, page 82 “The defendants admitted that the properties in question were titled in the names of plaintiffs but denied that the plaintiffs have declared the property for taxation purposes for lack of knowledge thereof.”

[31] See Complaint, Record, page 2

[32] See Plaintiffs' Formal Offer of Evidence, Record, pp. 148-150.

[33] Madrid et al. v. Spouses Bonifacio Mapoy and Felicidad Martines, G.R. No. 150887, August 14, 2009.

[34] G.R. No. 164402, July 5, 2010.

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