

FRANCISCO MASCARIÑA, ROSARIO MASCARIÑA, RUBEN SESPERES, SULPICIO SESPERES, SAMSON SESPERES, CRISANTA VILLAROSA, MARIA SESPERES, ELISA SESPERES, WILMA SESPERES, SAMSON V. SESPERE...*G.R. No. L-48974. November 29, 1988*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7d68478dbb50/>**FERNAN, C.J.:**

Assailed in this petition for certiorari is the propriety of the decision of the Court of First Instance of Quezon[1] on the merits of the complaint for easement of right of way after said court had denied defendants' motion to dismiss and granted their prayer therein for judgment on the pleadings.

Petitioners herein are the co-owners pro-indiviso of a parcel of land described as Lot 26 in the cadastral survey of Gumaca, Quezon, Lot 26 is bounded on the north by Lot 23, on the east by Lot 24 and a portion of the provincial road, on the west by a swamp and on the south by the Gumaca River and Lot 27.

Lots 23 and 27 are owned by the Eastern Quezon College, an educational institution. The school's main building is situated on Lot 23 while its home economics building and the green revolution project are located in Lot 27.

By tolerance of the petitioners, students of the school used a small path within Lot 26 in going to and from Lots 23 and 27. There were times, however, when petitioners closed the path to pedestrians. Feeling that its students were prejudiced by said closures of the path, the school, through its officials, caused the "invitation" of petitioner Francisco Mascariña by the Philippine Constabulary ostensibly to discuss the question of right of way. Apparently, the discussion did not resolve the question. Hence, on September 6, 1976, the school and its president, Jose R. Vilar, filed in the Court of First Instance of Quezon a complaint praying for an easement of right of way over Lot 26.[2]

In their answer, the defendants therein averred that plaintiffs were not entitled to the easement because Lots 23 and 27 were not surrounded by other lands without an adequate outlet to a public highway. They claimed that Lot 23 abuts the Gumaca cemetery road on the north while Lot 27 "nearly abuts" a newly opened public road on the west. They expressed the fear that should the easement be allowed, their lots would be surrounded by other realties thereby reversing the situation between the parties as they would then be the ones seeking a right of way. They imputed bad faith on the plaintiffs part in causing the "invitation" of Francisco Mascariña by the constabulary which they believed was actually designed to pressure them into agreeing to the plaintiffs' demand. They prayed for the dismissal of the complaint and, as counterclaim, the payment of moral damages to Francisco Mascariña.[3]

The defendants named in the complaint were Francisco Mascariña, Rosario Mascariña, Jaime Sesperes, Ruben Sesperes, Sulpicio Sesperes and Samson Sesperes. During the pre-trial, defendants' counsel manifested that Jaime Sesperes had died. Hence, the lower court issued an order giving defendants ten days within which "to file substitution of parties and to secure their conformity and opinion on the right of way." [4] Accordingly, said counsel filed a "notice of death of a party defendant" alleging that Jaime Sesperes died on March 13, 1977 and

enumerating therein Jaime's survivors and "substitutes" as his widow, Crisanta Villarosa, and his children, Ana Maria, Samson, Reuel, Manuel, Elisa, Wilna and Romeo Sesperes.[5]

Thereafter, the defendants filed a pleading captioned "motion for judgment on the pleadings with motion to dismiss". They stated therein that there being "no genuine issue" as to material facts as the question presented was merely one of law, and, the complaint itself not having stated a cause of action, the court should render judgment on the pleadings. They stressed, however, that there was no absolute need for the students, officials and faculty members of the school "to commute" between Lots 23 and 27 through Lot 26. Citing Article 649 of the Civil Code, defendants argued that Lots 23 and 27 not being entirely surrounded by other estates as in fact it was Lot 26 which was encompassed by other properties, plaintiffs were not entitled to the easement. Defendants claimed that the right of way was needed by the plaintiffs only to have convenient access between Lots 23 and 27 and not between those lots and a public highway. They asserted that mere convenience of the dominant estate was not enough basis for the imposition of the servitude.

The plaintiffs having filed an opposition to the motion to dismiss, the lower court issued on October 26, 1977 a one-sentence order which states: "The motion to dismiss is denied for lack of merit but judgment on the pleadings is granted as prayed for and submitted for decision (sic)."[6] Two months later or on December 28, 1977, the lower court promulgated a decision the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the defendants are hereby ordered to permit the plaintiff to construct a pathway three (3) meters wide from Lot No. 27 passing through Lot No. 26 owned by the defendants which connects Lot No. 23 owned by the plaintiff. The choice is given to the plaintiff, it being an educational institution. The safety and Convenience of the students as well as the members of the faculty of the said institution must be taken into consideration. The plaintiff shall pay P40.00 per square meter of the pathway that it will construct and to pay P1,000.00 for damages to crops and improvements destroyed. The plaintiff shall be responsible for the maintenance of said pathway granted to them. Before the plaintiff can exercise its right of way, it is required to submit a survey plan by a licensed geodetic engineer, subject to approval of this Court.

With Cost de oficio.

SO ORDERED."[7]

Following receipt of a copy of said decision, defendants filed a motion for reconsideration asserting that in deciding the case, the court should interpret the scope of the phrase "which is surrounded by other immovables pertaining to other persons and without adequate outlet of a public highway" in Article 649 of the Civil Code. They reiterated their contention that an easement of right of way may not be granted for the mere convenience of the dominant estate. They assailed the decision for ignoring the fact that a grant of an easement of right of way is subject to the limitation that the usefulness of the servient estate to its owner should not be unreasonably impaired.[8]

Later, they filed an urgent motion for deferment of ruling on the motion for reconsideration with prayer for a 10-day period to file a supplemental motion for reconsideration. After said motion was granted, the defendants filed a supplemental motion for reconsideration. They averred therein that their motion for judgment on the pleadings with motion to dismiss was treated by the court as two separate motions when in fact it was one single motion "as in essence it prayed for the dismissal of the complaint on the ground of lack of cause of action, pursuant to Sec. 1 (g) Rule 16, Rules of Court."[9]

They argued that the main thrust of the discussion in their motion was that "admitting hypothetically the truth of the allegations in the complaint, still they do not constitute a cause of action." They contended that pursuant to Section 15, Rule 6, the motion should have been liberally construed and considered as a mere motion to

dismiss.[10] They also assailed the decision in that: (a) the same was allegedly issued without a legal basis; (b) it was fatally defective for dismissing their counterclaim without requiring an answer thereto from the plaintiffs; (c) it contained statements with no factual basis; (d) it stated that Jaime Sesperes was substituted by his heirs when in fact the court failed to observe Section 17, Rule 3 which requires the issuance of a court order directing the legal representative of the deceased to appear and to be substituted for the deceased and, therefore, the decision has no binding effect on the heirs of Jaime Sesperes; and (e) it fixed a compensation for the right of way without any reasonable factual basis and without consulting the parties.

The lower court denied the defendants' supplemental motion for reconsideration. Hence, the instant petition.

Petitioners describe their petition as "pursuant to Section 17 of the Judiciary Act of 1948, as amended by Section 2 of Republic Act No. 5440." In the same breadth, they contend that the lower court's order denying their motion to dismiss and granting the motion for judgment on the pleadings "is a grave abuse of discretion amounting to lack of jurisdiction" and that the "judgment on the pleadings"[11] and the order denying their motion for reconsideration thereof "are a grave abuse of discretion or excess of jurisdiction" and that, "there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law" except through this petition for certiorari.[12]

It appearing that the lower court's exercise of judicial authority in rendering a decision without conducting a hearing to allow the parties to present their respective evidence, was oppressive and amounted to excess of jurisdiction and grave abuse of discretion, the petition shall be considered a special civil action of certiorari.[13]

This case proceeds from a comedy of errors, We have a counsel for defendants who, believing perhaps that the allegations in his pleadings were strong and convincing enough for the court to rule in favor of his clients, filed a "motion for judgment on the pleadings with motion to dismiss". When the court bifurcated said pleadings and denied the motion to dismiss but granted the motion for judgment on the pleadings, counsel for defendants did not object but complacently waited for the promulgation of the decision. Having realized his blunder albeit belatedly, he filed a vociferous motion for reconsideration of the decision. On its part, the lower court, for reasons unknown, resolved the case in a decision which impresses the reader that it knew first-hand the facts attendant to the case and therefore, it could do away with the presentation of evidence. These errors cannot be tolerated and hence, they must be corrected.

As earlier intimated, the lower court abused its discretion in granting the motion for judgment on the pleadings and in rendering a decision without conducting a hearing on the case. Section 1, Rule 19 of the Rules of Court provides that the lower court may, on motion of a party, direct judgment on the pleadings "where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleadings," We hold that the instant case does not fall within the purview of said section.

A perusal of the answer filed by the defendants and even their "motion for judgment on the pleadings with motion to dismiss" reveals that contrary to their allegation in the latter pleading that there was no genuine issue as to material facts, they asserted in both pleadings that there was no necessity for the easement of right of way as Lots 23 and 27 are not surrounded by other estates and that there are other ways of access to the public highway, Hence, the lower court should not have rendered judgment on the pleadings as defendants clearly contested the plaintiffs' allegations.[14]

The inconsistent allegations of defendants' counsel should have put the lower court on guard as to the real factual issues involved. Perhaps, the lower court acted the way it did because therein defendants' counsel seemed to have given away the defendants' right to present evidence in their favor. However, whatever lack of communication skills or procedural know-how on the part of their counsel should not be taken against the defendants especially in

a case like this which entails the diminution of their property rights over a parcel of land.

While it is true that in its order of June 30, 1977, the lower court directed the holding of an ocular inspection of the properties involved,[15] the record is bereft of any indication that such ocular inspection was indeed conducted. Although the easement is for a laudable purpose, there is a need for the determination of the proper compensation for the servient estate. The parties did not agree on this matter and neither was a hearing conducted thereon. Verily, the lower court may not arrogate upon itself the right to fix said compensation as well as the amount of damages for the crops and other improvements that may have to be destroyed to give effect to the easement.

As regards the propriety of the substitution of deceased defendant Jaime Sesperes, observance of the provisions of Section 17, Rule 3 of the Rules of Court is imperative especially in view of the recent development that one Edizer Mascariña, who claims to be the administrator ("tagapangasiwa") of the estate of the late petitioner Francisco Mascariña, has entered into an agreement with Eastern Quezon College through its registrar, Estelita Rodelas, to grant the school a right of way for a consideration as soon as this case is terminated.[16] The rights of the other co-owners of Lot 26 would be unduly prejudiced should they not be fully informed of any transaction involving said property.

WHEREFORE, the decision of the lower court is hereby SET ASIDE. The lower court is directed to immediately conduct a hearing on the case with notice to all the parties concerned and thereafter, to resolve the case with dispatch. This decision is immediately executory. Costs against private respondents.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin and Cortes, JJ., concur.

[1] Judge Juan S. Montecillo, presiding

[2] Civil Case No. 1201-G

[3] Rollo, pp. 22-25

[4] Rollo, p. 27

[5] Rollo, p. 28

[6] Rollo, p. 41

[7] Rollo, pp. 47-48

[8] Rollo, pp. 54-58

[9] Rollo, p. 64

[10] Rollo, p. 65

[11] i.e. the decision of December 28, 1977

[12] Petition, p. 4

[13] *Co Chuan Seng v. Court of Appeals*, G.R. No. 50151, March 21, 1984, 128 SCRA 308, 313

[14] See *Arroyo v. Caldoza*, L-17454, July 31, 1963 8 SCRA 547

[15] Original Record on Appeal, p. 7; Rollo, p, 30

[16] Rollo, p. 115

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