

SOUTHERN ISLANDS HOSPITAL SCHOOL OF NURSING ALUMNI ASSOCIATION, INC. (SIH-SNAAI), PETITIONER, VS. HON. SIMEON P. DUMDUM, JR., PRESIDING JUDGE, RTC-BR. 7, CEBU CITY, HON. EDGEMEL...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is a Petition for Review under Rule 42 of the Rules of Court assailing the Decision of the Regional Trial Court (RTC), Branch 7, Cebu City dated September 16, 2013 in Civil Case No. CEB-39639, which affirmed the Order of the Municipal Trial Court in Cities (MTCC), Branch 8, Cebu City dated March 15, 2013 dismissing petitioner's complaint in Civil Case No. R-57148 .

The Antecedents

On June 28, 2012, petitioner Southern Islands Hospital School of Nursing Alumni Association, Inc. (Alumni Association/Association) filed with the MTCC a case for ejectment with damages and attorney's fees with prayer for temporary restraining order (TRO) and writ of preliminary injunction against respondents Dr. Gerardo Aquino (Dr. Aquino) and Engr. Jose Peñaranda (Engr. Peñaranda) [both to be subsequently indicated herein as defendants].

The Complaint[1] alleged that per Report of the Ocular Inspection[2] conducted by the Department of Environment and Natural Resources (DENR), the Alumni Association was the lawful occupant of Lot 532-C, situated at Sambag II, Cebu City. The said Association had introduced improvements on the property, including a multi-purpose building constructed in 1972 and the concrete fence that enclosed the entire area of the lot consisting of 4,434 square meters. The building had been declared for taxation purpose[3] and the Alumni Association had paid its taxes on the building.[4]

On June 12, 2012, with all malevolence, bad faith and undue haste, and through force, intimidation, stealth, threats and strategy, defendants, their agents and hired hands entered Lot 532-C. They padlocked the gate of the Alumni Association, thereby preventing ingress and egress to the latter's compound. Defendants cordoned the area and secured it with armed blue guards. They also caused diggings in the premises which prevented the members and guests of the Alumni Association from parking their vehicles in the area. Further, defendants placed closed circuit camera in the premises and illegally removed a monument placed by DENR Inspectors.

The Alumni Association prayed, among others that: they be restored to their peaceful possession of the property; defendants be ordered to remove their equipment and illegal structures thereon; and pay damages to the Alumni Association. The association also prayed for preliminary injunctive relief asking the MTCC to order defendants to restore the status quo ante.

On July 3, 2012, the MTCC issued an Order[5] granting the Alumni Association's prayer for injunctive relief. However, during the hearing on July 13, 2012, the parties agreed that the members of the Alumni Association and

their vehicles would be allowed to use the usual access while the case would be heard. In view of the agreement, the MTCC issued another Order[6] declaring that the prayer for injunctive relief was deemed withdrawn and terminated. It further directed its Clerk of Court to return to the Alumni Association the P50,000.00-bond it posted.

Meanwhile, of the two named defendants, only Dr. Aquino, represented by the Office of the Solicitor General (OSG), filed an Answer to the complaint. In his Answer,[7] Dr. Aquino averred that he was the Medical Center Chief of the Vicente Sotto Memorial Medical Center (VSMMC) where the subject property was located. The Alumni Association only occupied the building situated in a portion of Lot 532-C, which was part of the VSMMC compound.

According to Dr. Aquino, the Alumni Association's occupancy of the building was by mere tolerance of the VSMMC. The Alumni Association constructed the structure only after Dr. Leonardo Bonjoc, then the Chief of Hospital, approved the Association's letter request[8] dated May 22, 1972. The Alumni Association also recognized the government's ownership of the lot when, in a letter[9] dated May 27, 2005 addressed to President Gloria Macapagal Arroyo (President Arroyo), it sought the government's donation of the property to the Association.

Dr. Aquino also denied that the Alumni Association owned the concrete fence because such enclosure for the entire hospital compound was in the possession and control of VSMMC. Regarding the Alumni Association's tax declaration for the building, the same was secured without prior permission from VSMMC. Nonetheless, it only pertained to the building and not to the adjacent portion of Lot 532-C on which the road works were being undertaken. Dr. Aquino averred that the portion of the lot could not have been in the Alumni Association's possession as it had long been used as exit route by vehicles leaving the hospital compound, and that the VSMMC, as owner of the property, had the right to conduct road works thereon.

The Alumni Association filed a Reply.[10] Subsequently, the parties were directed to file their position papers.[11]

After evaluating the parties' respective stance, the MTCC dismissed the case for want of proper cause of action and denied the prayer for injunctive relief.[12] The Alumni Association appealed to the RTC.[13] The RTC, however, affirmed the MTCC's Order.

Undaunted, the Alumni Association brought the matter to Us for review and assigned the following errors, to wit:

A. -

THE LOWER COURTS ERRED IN DISMISSING THE COMPLAINT FOR WANT OF PROPER CAUSE OF ACTION;

B.-

THE LOWER COURTS ERRED IN DENYING PETITIONER'S PRAYER FOR INJUNCTIVE RELIEF;

C.-

THE LOWER COURTS ERRED IN HOLDING THAT THE VICENTE SOTTO MEMORIAL MEDICAL CENTER (VSMMC) IS A REAL PARTY- IN-INTEREST AND/OR AN INDISPENSABLE PARTY IN THIS CASE; AND

D.-

THE LOWER COURTS ERRED IN HOLDING THAT “WHEN AN INDISPENSABLE PARTY IS NOT BEFORE THE COURT, THE ACTION SHOULD BE DISMISSED.”

This Court’s Ruling

The petition is without merit.

We discuss the errors in seriatim.

On the first error, the Alumni Association contended that the dismissal of its case was improper because: it had a justiciable cause of action for ejectment and damages against defendants; the ruling of the lower courts that the Alumni Association's possession of the property was only by VSMMC's tolerance had no factual and legal bases; the Alumni Association had better rights to possess the subject lot as it had been in possession thereof for more than 30 years in the concept of owner; and the RTC should not have relied on the letters presented by Aquino as these did not disprove the Alumni Association's better possessory right over the lot, considering that the DENR's Ocular Inspection Report declared the Association as the actual occupant of the property.

The contentions are unpersuasive.

The Alumni Association's complaint was aptly dismissed for want of cause action, a situation where the evidence does not prove the cause of action alleged in the pleading.[14] The Association filed the ejectment case, specifically forcible entry against defendants Dr. Aquino and Engr. Peñaranda for allegedly padlocking the Association's gate, making diggings on the premises and disturbing the Association's occupation of Lot 532-C.

Unfortunately for the Association, its evidence was insufficient to prove its claim of better possessory right over the subject property so as to stop the acts of Dr. Aquino and Engr. Peñaranda. Defendants, on the other hand, were able to show preponderant evidence defeating the Association's claim. Although the RTC recognized the Alumni Association's possession of the subject lot for more than 30 years, it fittingly discussed its basis for finding that such occupation was only by tolerance of VSMMC, the lot owner, thus:

A perusal of the records shows that indeed the plaintiff was in possession of the property for more than 30 years. Noteworthy, however, is the fact that the plaintiff's occupation of the lot in question was by mere tolerance of the VSMMC. The letter dated May 22, 1972, where it requested permission from Dr. Bonjoc, head of the SIH, to construct a multi-purpose building on the lot, and another letter dated May 27, 2005, to then Pres. Glor[i]a Macapagal Arroyo, where it sought the donation of the subject property, establish that the plaintiff recognized the government's ownership of the disputed lot.[15]

The Alumni Association belittled the letters and highlighted, instead, the DENR Ocular Inspection Report declaring it as the actual occupant of the property. Perusing the letters, however, We find that these were of the unequivocal tenor that the Association, since the inception, was aware that it is the hospital, or the VSMMC which has control over the premises, such that the Association sought the permission of the VSMMC's medical director when it constructed its building. The pertinent portion of the 1972 letter is hereby reproduced, viz.:

After years of preparation and endeavors, the Southern Islands Hospital School of Nursing Alumni Association would like to commence the construction of the proposed project, the SIHSN Socio-Cultural Center, a multi-purpose building, at the school campus.

May we have your kind permission as Chief of the Hospital to start this project anytime during the month of June, 1972.

We will be happy if you could extend to us an immediate consideration.[16] [Emphasis and underscoring

supplied.]

Also, notwithstanding its occupation of the portion on which its building was erected, the Association continued to recognize the fact that it had no ownership rights over the property, hence, it requested the President to authorize the Department of Health and the VSMMC to donate the land it was occupying. The letter dated May 27, 2005 to President Arroyo reads in part, viz.:

The realization of these projects all depend on your support Madame President as the Association seeks your permission and authority for the Department of Health and the Vicente Sotto Memorial Medical Center to donate the land where the present Association is occupying. xxx

We hope and pray that xxx you will affirmatively act on our request.[17] [Emphasis and underscoring in the original]

The evidentiary worth of the letters is not even diminished by the DENR Ocular Inspection Report banked upon by the Association. It is observed that such report was made upon the request of the Alumni Association and the DENR's declaration that the association was the occupant of the lot was based only on the 1972 building permit that the association showed during the ocular inspection. This is not enough to overcome the preponderance of evidence in favor of defendants since even the year of issuance of the building permit coincided with the Association's request for permission to construct the structure from then VSMMC's medical director.

In civil cases, as in the present ejectment suit, the burden of proof to be established by preponderance of evidence is on the plaintiff who is the party asserting the affirmative of an issue.[18] Preponderance of evidence means evidence which is of greater weight, or more convincing than that which is offered in opposition to it.[19] We concur with the courts below that the evidence adduced by defendants is superior to that of the Alumni Association, hence, the dismissal of the case was in order.

On the second error, the Alumni Association contended that it was entitled to the injunctive relief and the status quo order issued by the MTCC should not have been disturbed.

The contention regarding the injunctive relief had long been mooted and should no longer be raised as an issue in this petition. The Alumni Association ought to be reminded that as early as July 13, 2012, the parties in this case already agreed that the application for injunctive relief was withdrawn and terminated. The order of the MTCC on the matter even specified that the parties[20] and their counsels affixed their signatures on the stenographic notes to signify their conformity to the agreement made in open court.[21]

On the third and fourth errors, petitioner contended that VSMMC was not a real party-in-interest and not an indispensable party to the case as it had never become the owner of Lot 532-C, or came in possession thereof. Even assuming that VSMMC could be considered an indispensable party, the lower courts still grievously erred when it dismissed the case on such ground instead of ordering VSMMC to be impleaded in the case.

The contentions are still bereft of merit.

The RTC had sufficiently addressed the foregoing contentions of the Alumni Association when it ruled that:

The claim of the defendants that this case should have been brought against VSMMC is well taken. It is clear that the disputed property is public in character and VSMMC is vested with the custody of the same.

The Court agrees with the defendants that the acts of Dr. Aquino were conducted in connection with the regular performance of his official functions as Chief of the VSMMC. The defendants cannot be categorized as the real party in interest as defendants in the ejectment case. xxx They merely acted as agents of the VSMMC or the government. In effect, the defendants "have not shown any real, actual, material, or substantial interest

in the subject matter of action.[22]

We find no reason to deviate from the congruent findings of the MTCC and the RTC that the VSMMC is the real party-in-interest and an indispensable party. Well-settled is the rule that the trial court's factual findings, when affirmed by the appellate court, are conclusive and binding, if they are not tainted with arbitrariness or oversight of some fact or circumstance of significance and influence.[23] None of the adverse circumstances characterized the MTCC and the RTC's findings.

The Alumni Association's question on the dismissal of its case, allegedly for non-joinder of indispensable party is also baseless. Although this Court agrees with the Association's contention that the non-joinder of indispensable parties is not a ground for the dismissal of an action, We find the principle inapplicable to the case at bar. A judicious evaluation of the assailed decisions readily shows that the Alumni Association's complaint was not dismissed for non-joinder of indispensable parties but instead, for want of cause of action. In other words, the Alumni Association failed to proffer the evidence required to prove the cause of action it alleged in its pleading.

WHEREFORE, the appeal is DENIED. The Decision of the Regional Trial Court (RTC), Branch 7, Cebu City dated September 16, 2013 in Civil Case No. CEB-39639 is hereby AFFIRMED.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 32-37.

[2] Rollo, p. 39.

[3] See Tax Declaration No. GRC6-05-033-00337, rollo, p. 41.

[4] See Tax Clearance Certification, rollo, p. 42.

[5] Rollo, pp. 126-128.

[6] Rollo, pp. 129-130.

[7] Rollo, pp. 55-69.

[8] Rollo, p. 71.

[9] Rollo, p. 72.

[10] Rollo, pp. 78-81.

[11] See Position Paper of the Alumni Association, rollo, pp. 82-91.

[12] See dispositive portion of MTCC's decision, rollo, p. 26.

[13] See Notice of Appeal dated March 25, 2013, rollo, p. 96.

[14] See Macaslang v. Spouses Zamora, G.R. No. 156375. May 30, 2011.

[15] Rollo, p. 29.

[16] Rollo, p. 71.

[17] Rollo, p. 72.

[18] See *Borlongan v. Madrideo*, G.R. No. 120267. January 25, 2000.

[19] *Condes v. Court of Appeals*, G.R. No. 161304, July 27, 2007.

[20] Except for Dr. Aquino who did not appear.

[21] See second to the last paragraph of the Order, rollo, p. 129.

[22] See rollo, pp. 30-31.

[23] See *Baritua v. Mercader*, G.R. No. 136048. January 23, 2001.

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