

EMMA BUENVIAJE NABO AND ALL PERSONS CLAIMING RIGHTS UNDER HER, PETITIONER, VS. FELIX C. BUENVIAJE, RESPONDENT.

Ponente: BUESER, J.

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BUESER, J.:

Before this Court is a Petition for Review under Rule 43 of the Rules of Court, filed by Emma Buenviaje Nabo (“petitioner”), seeking to annul and set aside the Decision dated July 10, 2014, of the Regional Trial Court, Branch 77, San Mateo, Rizal (“trial court”).

The Facts

Felix Buenviaje (“respondent”) filed a complaint for ejectment against Emma Buenviaje (“petitioner”) alleging that he is the registered owner of 198 square meters of land located in the Municipality of San Mateo, Province of Rizal covered by Original Certificate of Title (OCT) No. 0-1777 of the Register of Deeds for the Province of Rizal. Since the issuance of title in his favor, he has allowed the petitioner, his niece, to stay on 100 square meters of his property (“subject property”) but with the understanding that she should vacate the same once he needs it.

On or about July 2012, respondent sent petitioner, and all those claiming rights under her, a letter ordering them to vacate the subject property, within fifteen (15) days, from receipt of the said letter. However, petitioner refused to heed respondent's demand despite her receipt of the letter on October 1, 2012. The subsequent barangay conciliation failed resulting to the issuance of a barangay certificate to file an action and this present complaint.

Petitioner countered that she had been in possession of the subject property for more than 30 years. Subject property is registered with the Office of the Assessor of the Province of Rizal in the name of her father, Carlos Buenviaje, for which Tax Declaration No. 14233 was issued by the Municipal Assessor of San Mateo Rizal. Later on, she purchased the subject property from her father and has been paying the real property taxes thereon up to present. She claimed that the title of the respondent had been secured through fraud. In 1998, respondent, together with a municipal assessment officer, convinced her to consolidate their properties so they can get a single title to help petitioner's son get a loan. Petitioner rejected respondent's offer. In May 2012, petitioner found out that the subject property is already titled under respondent's name.

The Lower Courts' Decisions

After due proceedings, the Municipal Trial Court rendered its decision^[1] dated October 4, 2013, in favor of the petitioner to wit -

“xxx, in the case at bench, it is unarguable that defendant has been in possession of the subject property since time immemorial even long before plaintiff was able to secure title, those who can prove prior physical possession or priority in time have the security that entitles them to continue in possession, even against the new owner or person having a better right, irrespective of whatever may be the character of their possession until they are lawfully evicted in a proper action by the said new owner or person having a better right (xxx) as in the situation herein of the defendant.”

Aggrieved, respondent appealed.

On July 10, 2014, the trial court issued the assailed Decision[2] reversing and setting aside the MTC's decision because -

“It was established that plaintiff is the registered owner of the parcel of land subject matter of this case under Original Certificate of Title No. 0-1777 issued on 28 August 2008 by the Land Registration Authority pursuant to the Decision dated 07 February 2003 of MTC Judge Ma. Teresa Cruz-San Gabriel of San Mateo, Rizal Municipal Trial Court.”

Hence, this petition.

Petitioner raises the following -

Assignment of Errors

THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN FAILING TO DISMISS THE COMPLAINANT'S APPEAL DATED 10 DECEMBER 2013 CONSIDERING THAT THE RESPONDENT IS THE UNCLE OF PETITIONER AND HIS COMPLAINT FAILED TO ALLEGE THAT EARNEST EFFORTS TO COMPROMISE WERE MADE.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN FINDING THAT RESPONDENT IS ENTITLED TO THE POSSESSION OF THE SUBJECT PROPERTY.

This Court's Decision

Petitioner argues that the trial court committed error in not dismissing the complaint despite the lack of allegation that earnest efforts were exhausted to try to settle their differences considering that the respondent is the uncle of the petitioner.

In addition, the trial court committed error in giving credence to respondent's bare allegation that petitioner's possession is by his mere tolerance.

We decide.

On the first issue. Petitioner is not a descendant of the respondent. She is a collateral relative.

Article 964 of the Civil Code provides -

Art. 964. A series of degrees forms a line, which may be either direct or collateral.

A direct line is that constituted by the series of degrees among ascendants and descendants.

A collateral line is that constituted by the series of degrees among persons who are not ascendants and descendants, but who come from a common ancestor.

Article 965, on the other hand, provides who are included in the direct line, viz -

Art. 965. The direct line is either descending or ascending.

The former unites the head of the family with those who descend from him.

The latter binds a person with those from whom he descends.

Respondent's ascendants are his parents, his grandparents, and great grandparents. His descendants, if there are any, would be his children, grandchildren and great-grandchildren. Hence, petitioner is his collateral relative. Therefore, Article 151 of the Family Code[3] has no application to the case at bar.

Going now to the substantive matter.

The following facts are undisputed -(1) Petitioner is in possession of the subject property; and (2) subject property is registered in the name of respondent under OCT No. 0-1777.

It is an age-old rule that the person who has a Torrens Title over a land is entitled to its possession. It has repeatedly been emphasized that when the property is registered under the Torrens system, the registered owner's title to the property is presumed legal and cannot be collaterally attacked. It has even been held that it does not even matter if the party's title to the property is questionable.[4]

The OCT of respondent is, therefore, evidence of indefeasible title over the subject property and, as its holder, he is entitled to its possession as a matter of right.

Petitioner cannot collaterally attack the title of respondent. Section 48 of P.D. No. 1529 prohibits a collateral attack on a Torrens title.[5] In the case at bar, petitioner's allegation, that the manner upon which the respondent was able to secure his title is doubtful, clearly constitutes a collateral attack on a certificate of title. OCT No. 0-1777 was issued by the Land Registration Authority pursuant to the Decision dated February 7, 2003 of MTC Judge Ma. Teresa Cruz-San Gabriel of San Mateo, Rizal, Municipal Trial Court. Besides, Judge Ma. Teresa Cruz-San Gabriel has in her favor the presumption of regularity in the performance of official duties which the records failed to rebut. The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption is rebutted, it becomes conclusive. Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness.[6] Further, the Court notes that petitioner participated in the registration proceedings but failed to file any formal opposition. A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

1. initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
2. eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
4. within one year from the last demand on defendant to vacate.

A careful scrutiny of the complaint reveals that respondent's cause of action is for unlawful detainer and that the foregoing requisites were met.

Respondent, being the registered owner of the subject property, also has the corresponding right to the recovery and possession of the same. The petitioner who is in physical occupancy of the land belonging to respondent has no right whatsoever to unjustly withhold the possession of the said land from the latter and should immediately vacate the same. All told, no error was committed by the Regional Trial Court, Branch 77, San Mateo, Rizal in its Decision dated July 10, 2014.

WHEREFORE, the petition is DISMISSED and the decision of the trial court is AFFIRMED.

IT IS SO ORDERED.

Bruselas, Jr., A.D., Chairman and [*]Reyes Carpio, A., JJ., concur.

[*] Acting Junior Member for 15 working days only from March 17, 2015 per Office Order No. 81-15-ABR dated

March 16, 2015.

[1] Rollo, pp.51-54.

[2] Id. at 55-58.

[3] Art. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the case must be dismissed.

This rule shall not apply to cases which may not be the subject of compromise under the Civil Code.

[4] Go vs. Lookyu, G.R. No. 196529, July 10, 2013.

[5] This provision provides:

SECTION 48. Certificate not subject to collateral attack. — A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

[6] Anuncio C. Bustillo, Emilio Sumilhig, Jr., and Agustin Billedo, Jr., vs. People of the Philippines, G.R. No. 160718, May 12, 2010.

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