

SPOUSES ABUNDIO AND PEPITA DAPULA, PETITIONERS, VS. MAGDALENA MONTAJES, RESPONDENT.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This is a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure seeking to set aside the Decision[1] dated April 13, 2010 and the Resolution[2] dated August 21, 2010 rendered by the Regional Trial Court, Branch 39 of Sogod, Southern Leyte in Civil Case No. R-282-C entitled “Spouses Abundio Dapula and Pepita Dapula vs. Magdalina Montajes”.

This case stems from a complaint[3] for Ejectment filed by petitioners spouses Abundio and Pepita Dapula against respondent Magdalina Montajes on June 25, 2009.

Petitioners claim that they are the registered owners and lawful possessors of a parcel of land covered by OCT No. 41681[4], denominated as Lot No. 4032 with an area of 2,766 square meters situated in Barangay Bongbong, San Francisco, Southern Leyte. A portion of the lot is being occupied by the respondent, by tolerance of the petitioners. Respondent constructed a tenement which was used as her dwelling and a store for her business. Respondent did not pay any rental to the petitioners on the condition that respondent would vacate the premises once demanded by the petitioners.

Before instituting the instant action, petitioners informed the respondent that the former would use the premises. However, respondent refused to vacate. Hence, petitioners sought assistance from the barangay. On May 19, 2000, the two parties met and agreed that petitioners would pay off their debt amounting to P6,199.40 to respondent. They also agreed to extend respondent's stay for two more years, or from May 2000 to May 2002. Unfortunately, respondent reneged on their agreement.

Petitioners made several demands to the respondent. The last demand letter to vacate[5] was made on May 15, 2009. Still, respondent refused to vacate the premises up to the present. Hence, petitioners filed this instant case.

On the other hand, respondent claims that sometime on May 14, 1995, petitioner Abundio Dapula entered into an agreement with the respondent to sell a portion of his land at Bongbong, San Francisco, Southern Leyte, with an area of 128 square meters in the amount of P 6,400.00. Respondent made a partial payment in the amount of P6,099.00; the balance to be paid upon signing of the deed of sale.

Thinking that the land is their own property, respondent and her late husband built a house of mixed materials on the premises of the property without asking for permission from the petitioners and not by tolerance of the petitioners. They spent P91,000.00 for the construction. When the house was finished, petitioners retracted selling his property and refused to execute a deed of sale. Respondent claims that she is a builder in good faith and has the option of buying the land if petitioners will not buy her house.

On October 1, 2009, the Municipal Trial Court of San Francisco, Southern Leyte rendered a Decision[6] in favor of the petitioners and against the respondent, the dispositive portion of which states:

“WHEREFORE, by preponderance of evidence in favor of the plaintiffs and against defendant, judgment is hereby rendered:

1. DECLARING plaintiff to have a better right of possession over Lot. No. 4032, Case 16, cad. 760-D covered by Katibayan Ng Orihinal Na Titulo Bldg.(sic) 41681.

2. ORDERING defendant Magdalena Montajes to vacate the premises and remove her structures within said lot;

3. DIRECTING defendant Magdalena Montajes to pay plaintiffs-spouses the following:

a. P2,000.00 as arrear rents reckoned from the last written demand to vacate until the promulgation of this Decision;

b. P500.00 rent per month for the use and occupation of said portion until defendant actually vacate and remove her structure thereon;

c. P15,000.00 as attorney's fees.

4. TAXING defendant the cost of this suit.

SO ORDERED.”

Dissatisfied with the MTC Decision, respondent filed an Appeal[7] to the Regional Trial Court docketed as Civil Case No. R-282-C. Respondent did not challenge the order of ejectment. Respondent only alleged that the MTC committed errors when it did not declare respondent a builder in good faith, thereby giving respondent a right to be indemnified for the value of the house or a right to buy the lot, if the petitioners will not purchase the house and the right of retention.

On April 13, 2010, the Regional Trial Court rendered the assailed Decision[8] which granted the appeal and set aside the MTC Decision, thus:

“WHEREFORE, premises considered, the judgment of the court a quo is reversed and set aside and a new judgment is hereby rendered.

- DISMISSING the instant action for lack of merit;

- DECLARING the defendant-appellant a builder in good faith of her house worth P91,000.00 erected on the land of plaintiffs-appellees;

- ORDERING the plaintiffs-appellees to indemnify the defendant-appellant the total value of the house;

- ALLOWING the defendant-appellant the right of retention of possession of her house until fully paid of its value;

- REVOKING the imposition of damages against the defendant-appellant;

- CONDEMNING the plaintiffs-appellees to pay defendant-appellant the sum of P20,000.00 as moral damages and P20,000.00 as attorney's fees; and

- To pay the costs of this appeal suit.

SO ORDERED.”

Thereafter, petitioner filed a Motion for Reconsideration[9], but this was denied by the court a quo in the Resolution[10] dated August 21, 2010.

Aggrieved, petitioner filed the instant petition[11] raising the following issues:

I

WHETHER THE RTC ERRED IN HOLDING THE RESPONDENT AS BUILDER IN GOOD FAITH

II

WHETHER THE RTC ERRED IN ORDERING THE PETITIONER TO INDEMNIFY THE RESPONDENT OF THE TOTAL VALUE OF HER HOUSE

III

WHETHER THE RTC ERRED IN CONCLUDING THAT RESPONDENT HAS THE RIGHT OF RETENTION OF HER HOUSE UNTIL FULLY PAID;

IV

WHETHER THE RTC ERRED IN IMPOSING DAMAGES AGAINST THE PETITIONERS

V

WHETHER THE RTC ERRED IN REVERSING AND SETTING ASIDE THE DECISION OF THE MTC;

VI

WHETHER THE RTC ERRED IN DISMISSING THE INSTANT ACTION.[12]

It must be remembered that this case stems from an Unlawful Detainer case and the sole issue for resolution is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. Where the issue of ownership is raised by any of the parties, the courts may pass upon the same in order to determine who has the right to possess the property. The adjudication is, however, merely provisional and would not bar or prejudice an action between the same parties involving title to the property.[13] Since the issue of ownership was raised in the unlawful detainer case, its resolution boils down to which of the parties' respective evidence deserves more weight.[14]

In this case, petitioners' cause of action for unlawful detainer is based on their ownership of the land covered by OCT No. 41681 and on their claim that they merely tolerated respondent's stay therein. When respondent refused after petitioners' demand for her to vacate, respondent's occupation became unlawful. They maintain that respondent's claim of ownership is based on an unproven sale.

On her part, respondent insists that the 128 square meters portion of the property, where her house was erected, was already sold to her by petitioner Abundio Dapula, Sr. Thus, by virtue of the sale, she has the right to possess the said property. The respondent demanded to the petitioners to execute a Deed of Sale but the latter refused and retracted from their agreement.

In the present case, respondent failed to present evidence to substantiate her allegation that a portion of the land was sold to her in 1995. In fact, they executed separate "Kasabutan" in the parties' confrontation dated May 19, 2000. Petitioners agreed to extend respondent's stay for two (2) more years, or from May 2000 to May 2002[15]; respondent also received a payment of P6,199.40 for petitioners' indebtedness to her[16]. If the sale really took place, the respondent would not have agreed to vacate the lot in May 2002. Clearly therefore, respondent's claim that there was a sale is unsubstantiated.

The subject property is covered by OCT No. 41681, registered in the name of the petitioners. As against the respondent's unproven claim that she acquired a portion of the property from the petitioners through sale, the Torrens title of petitioners must prevail. Petitioners' title over the subject property is evidence of their ownership

thereof. It is a fundamental principle in land registration that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. Moreover, the age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof.[17]

As the registered owner, petitioner had a right to the possession of the property, which is one of the attributes of ownership. The petitioners have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if they were aware of the respondent's occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all.[18]

Since respondent's occupation of the subject lot is by mere tolerance or permission of the petitioners, without any contract between them, respondent is bound by an implied promise that she will vacate the same upon demand, failing which a summary action for ejectment is the proper remedy against her.

We note that the court a quo opined that “upon compliance of the requirements for transfer, the OCT will be cancelled and new one will be issued reflecting the new area of 2,638 sq. meters and a TCT will be issued to the grantee for 128 sq.meters.” [19]

The court a quo exceeded its jurisdiction with the above statement. It is settled that a Torrens Certificate of title is indefeasible and binding upon the whole world unless and until it has been nullified by a court of competent jurisdiction. Under existing statutory law, the power to pass upon the validity of such certificate of title at the first instance properly belongs to the Regional Trial Courts in a direct proceeding for cancellation of title.[20] An unlawful detainer case is not a direct attack on petitioners' title of ownership.

Petitioners claim that the court a quo erred in holding that respondent was a builder in good faith.

We agree with the petitioners.

Since respondent's possession of the subject property was by mere tolerance, she has no right to retain its possession under Article 448 of the Civil Code. She had no proof of the alleged sale of the 128 square meter. She even allegedly sent a letter to petitioners for the latter to execute a deed of sale. She is aware that her tolerated possession may be terminated any time and she cannot be considered as builder in good faith.

It is well settled that both Article 448[21] and Article 546[22] of the New Civil Code, which allow full reimbursement of useful improvements and retention of the premises until reimbursement is made, apply only to a possessor in good faith, i.e., one who builds on land with the belief that he is the owner thereof. Verily, persons whose occupation of a realty is by sheer tolerance of its owners are not possessors in good faith.[23] At the time respondent built the improvements on the premises in 1995, she knew that her possession was by mere permission and tolerance of the petitioners; hence, she cannot be said to be a person who builds on land with the belief that she is the owner thereof.

It must be stressed, however, that the court's adjudication of ownership in an ejectment case is merely provisional, and affirmance of the MTC's decision would not bar or prejudice an action between the same parties, involving title to the property, if and when such action is brought seasonably before the proper forum.[24]

WHEREFORE, premises considered, the instant Petition for Review is GRANTED. The Decision dated April 13, 2010 of the Regional Trial Court is SET ASIDE and the Decision dated October 1, 2009 rendered by the Municipal Trial Court is REINSTATED.

SO ORDERED.

Delos Santos[*], (Chairperson) and Quijano-Padilla[**], JJ., concur.

[*] Acting Chairperson per Office Order No. 06-14-ELDS dated February 28, 2014.

[**] Acting Junior Member per Office Order No. 472-12-ABR dated December 12, 2013.

[1] Rollo, pp. 114-132 (penned by Judge Rolando L. Gonzales).

[2] Rollo, pp. 149-150.

[3] Rollo, pp. 28-31.

[4] Rollo, pp. 53-54.

[5] Rollo, p. 55.

[6] Rollo, pp. 85-99 (penned by Judge Fabio T. Albao, Jr.).

[7] Rollo, pp. 155-161).

[8] Rollo, pp. 114-132.

[9] Rollo, pp. 133-137.

[10] Rollo, pp. 149-150.

[11] Rollo, pp. 7-27.

[12] Rollo, pp.

[13] *Barias v. Heirs of Bartolome Boneo*, G.R. No. 166941, December 14, 2009.

[14] *Esmaguél vs. Coprada*, G.R. no. 152423, December 15, 2010.

[15] Rollo, pp. 70-71.

[16] Rollo, pp. 72-73.

[17] *Caña v. Evangelical Free Church of the Philippines*, G.R. No. 157573, February 11, 2008.

[18] *Esmaguél vs. Coprada*, G.R. no. 152423, December 15, 2010.

[19] Rollo, pp. 9-10.

[20] *Esmaguél vs. Coprada*, G.R. no. 152423, December 15, 2010.

[21] Art. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in articles 546 and 548, or to oblige the owner who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof..

[22] Art. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may

retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[23] Pada-Kilario v. Court of Appeals, 379 Phil. 515, 529-530 (2000).

[24] Soriente v. Estate of the Late Arsenio E. Concepcion, G.R. No. 160239, November 25, 2009.

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