

HEIRS OF JEREMIAS ULAYAO, NAMELY: NELSON, FERELYN, EDJUNNEL, WILMA, LAILA, ANALYN, AND LILIBETH, ALL SURNAMED ULAYAO, PETITIONERS, VS. SPS. ROLANDO SOLLER AND NENITA T. SOLLER, ...

Ponente: DACUDAO, J.

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DACUDAO, J.:

This appeal by way of petition for review seeks to overturn the Decision,[1] dated November 9, 2005, of the Regional Trial Court (or RTC) of Pinamalayan, Oriental Mindoro, Branch 42, in Civil Case No. 2046-05, which affirmed with modification the summary judgment,[2] rendered on July 1, 2005, by the Municipal Trial Court (or MTC) of Bansud-Gloria, Oriental Mindoro, in Civil Case No. B-328.

In March 1997, the respondent-spouses Rolando and Nenita Soller, as plaintiffs, sued out before the MTC of Bansud-Gloria in Mindoro Oriental, a complaint[3] for recovery of possession of realty, and damages, against Jeremias Ulayao and all persons claiming under him.

In said complaint, the therein plaintiffs-spouses alleged that they are the registered owners, and that they and their predecessor-in-interest, had been the lawful possessors, of a parcel of land situated in the Poblacion of Bansud, Oriental Mindoro, containing an area of 564 square meters and covered by TCT No. 72780, which the therein defendant Jeremias Ulayao occupied by means of force, violence, stealth and intimidation sometime in February 1996; that therein defendant Jeremias Ulayao refused to vacate the premises, despite demand; and that, after conciliation efforts at the barangay lupon failed, they instituted the instant suit.

The plaintiffs-spouses thus prayed, that, after due proceedings the therein defendant Jeremias Ulayao and all persons claiming under him, be evicted or ousted from the disputed premises.

The plaintiffs-spouses also asked for the payment of attorney's fees, reasonable rentals for the use and enjoyment of the questioned premises, as well as moral and exemplary damages.

Resisting the complaint, the therein defendant Jeremias Ulayao averred in his answer,[4] by way of special and affirmative defenses, that the subject property, which adjoins his land, abutted a creek, and was formed by accretion; that he is now the lawful owner and possessor thereof, having acquired the same through adverse possession for more than thirty (30) years; that he had also introduced valuable improvements thereon, so that the subject property has now become a commercial piece of property; but that, to his prejudice, Paulina Lusterio, the predecessor-in-interest of the plaintiffs-spouses, applied for a free patent thereover with the Community Environment & Natural Resources Office (or CENRO) of Socorro, Oriental Mindoro; that when he learnt of Lusterio's application, he forthwith filed a protest with that Office, which protest the CENRO sustained or upheld, in a comment and observation that that office issued in 1992, whereunder the CENRO recommended that an action for the revocation of title of Paulina Lusterio be filed in court; that his adverse possession over the disputed property is moreover shown by the fact that his house is there, and by the other permanent structures and improvements standing thereon; and that, besides, the MTC has no jurisdiction over the case, even as venue was

improperly laid.

As counterclaim, Jeremias Ulayao asserted that he is entitled to attorney's fees; that because of the filing of the baseless and unfounded suit, he likewise experienced mental anguish, warranting payment of moral damages; and that he moreover, on that account, deserves recompense in the form of exemplary damages.

During the pendency of the case, Jeremias Ulayao died, and was substituted by his heirs, the herein petitioners.

Upon the facts recited, the plaintiffs-spouses moved for a summary judgment,[5] thereunder contending that there is no genuine issue in the case, since their ownership of the property is proven by a torrens title in their favor, the validity of which could not be collaterally attacked. Appended to their motion was an affidavit executed by the plaintiff-husband, Rolando Soller, attesting to the truth of the averments of the complaint.

On July 1, 2005, the MTC indeed rendered a summary judgment, decretally disposing of the case in this manner:

"Consequently, this Court finds merit in the plaintiff's motion for summary judgment and thus hereby renders judgment as follows:"1. Directing the defendants to turn over to the plaintiffs immediately the possession of the parcel of land covered by TCT No. 72780 of the Registry of Deeds of Oriental Mindoro containing an area of 564 square meters;

"2. Ordering the defendants to pay to the plaintiffs the following:"a. Actual damages in the amount of P3,000.00 per month from February, 1996 until they actually turn over the possession of the land to the plaintiffs;

"b. Moral damages in the amount of `P10,000.00;

"c. Attorney's fees in the amount of P10,000.00

"SO ORDERED.

"Bansud, Oriental Mindoro.

"July 1, 2005.

"ANTONIO L. BALDOS

"Presiding Judge"

The MTC ratiocinated:"Indeed Rule 35 of the 1997 Rules of Civil Procedure allows the rendition by the court of summary judgment if the answer fails to tender a genuine issue of fact, except as to the amount of damages. It will be gleaned from the pleadings on hand that the ownership of the property sought to be recovered by the plaintiffs is founded on TCT No. 7280 issued in their name by the Registry of Deeds of Oriental Mindoro on January 26, 1994. Jurisprudence is to the effect that a certificate of title is the best evidence of ownership (Ricardo Abi-Abi vs. Malawani, et. al.: G.R. No. 142518: April 4, 2001)"As such, the same is indefeasible and cannot be attacked collaterally (Heirs of Vencilao Sr. vs. CA: G.R. No. 123713: April 1, 1998). Based on this ruling, the affirmative defense raised by the defendants that the subject parcel of land belongs to them by accretion, or that the title of the plaintiffs is infirm, cannot be recognized in this case."

Dissatisfied therewith, therein defendants interposed an appeal to the RTC.

In their appeal memorandum,[6] therein defendants argued in essence that the defense of laches and prescription raised by the then defendant Jeremias Ulayao in his answer tendered a genuine issue of fact, and this would necessarily defeat, or at the very least, put in doubt or question therein plaintiffs-spouses' claim of title or dominion over the disputed premises—adverting to the ruling in Heirs of Bationg Lacamen v. Heirs of Laruan, No.

L-27088, July 31, 1975, 65 SCRA 605.

In the now assailed decision, the RTC affirmed with slight modification the MTC's summary judgment, to wit:

“The defendant-appellant’s memorandum raised two issues, to wit: ‘1. Whether or not the Court a quo was justified in rendering a summary judgment; and

‘2. Whether or not the decision of the Court a quo was in accordance with law and jurisprudence.’

“Anent the first issue of whether or not the Court a quo was justified in rendering a summary judgment, the Honorable Supreme Court held:

“Summary judgment is appropriate when there are no genuine issues of fact which call for the presentation of evidence in a full blown trial. (Evadel Realty vs. Development Corporation vs. Spouses Antero and Virginia Soriano; G.R. No. 44291, April 20, 2001). What is crucial for determination on whether or not summary judgment is proper or appropriate (sic, should be appropriate) in the presence or absence of a genuine issue as to any material fact.

“A ‘genuine issue’ is an issue of fact which requires the presentation of evidence. The party who moves for summary judgment had the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is patently unsubstantial so as not to constitute a genuine issue for trial. Trial Courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact. When the facts as pleaded by the parties are disputed or contended, proceedings for summary judgment cannot take place of trial.

“Plaintiffs-appellees seek to recover a parcel of land which is covered by TCT No. 7280, issued in their name with an area of 564 square meters. However, the defendants-appellants resisted such claim and contended that they are the lawful owners of the said parcel of land for having acquired the same by acquisitive prescription through long, continuous and adverse possession for more than thirty (30) years and had introduced valuable improvements like filling up of boulders, gravel and sand, thus transforming the area which was once upon a time swampy, into usable commercial property. In short, the defendants-appellants are questioning the acquisition of the land by the original owner Paulina Lusterio whom the plaintiffs-appellees bought the subject land because they affirmed that the land should have been titled in the name of the defendants-appellants.

“In an action for recovery of possession the basic issue for resolution is that of ownership and in this case, the determination of ownership of the subject property hinges on who is the title holder. Admittedly, the land in question is registered in the name of plaintiffs-appellees under TCT No. T-72780. Hence, even assuming the claim of the defendants-appellants to be true that they had long been in possession and had introduced valuable improvements on the land, this will not tender a genuine issue because as vividly pointed out by the Court a quo property registered under the torrens system cannot be collaterally attacked in an action like the case at bar. The issue of the validity of the title of the plaintiff can only be assailed in action expressly instituted for that purpose. (Spouses Elpidio Apostol, et., vs. CA, et. al. G.R. No. 125375, June 17, 2004).

“As held by the Honorable Supreme Court in the case of Reynaldo Bololoy, et. al, vs. Alfredo Hular, G.R. No. 157767, September 9, 2004, ‘where a property subject of controversy is duly registered under the Torrens System, like in this case, the presumptive conclusiveness of such title should be given weight and in the absence of strong and compelling evidence to the contrary, the holder thereof should be considered as the owner of the property until his title is nullified or modified in an appropriate ordinary action. A Torrens Certificate is evidence of an indefeasible title to property in favor of the person in whose name appears, therein. Such holder is entitled to the possession of the property until his title is nullified.

“The defendants also claimed that the subject property came into existence by reason of continuous accretion through the years brought about by the flow of water coming from the natural creek adjoining his registered property. As such the defendants claimed that any accretion thereto belongs to them. The Court is not convinced with such argument because as held by the Supreme Court in the case of Grande vs. Court of Appeals (115 Phil. 521), the accretion does not automatically become registered land just because the land which receives it is covered by a Torrens Title. The adjoining property owner must have it registered to form part of his property.

“With respect to the lower Court’s award of P10,000.00 as moral damages and P3,000.00 per month as actual damages to the plaintiff from February, 1996 until the defendants actually turn over the possession of the subject land to the plaintiffs, the Court is not in accord with such award of damages. While proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount being left to the discretion of the Court, it is nevertheless essential that the claimant must satisfactorily prove the existence of the factual basis of the damage and its causal relation to defendants’ act. Moral damages are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty to a wrong-doer. This has not been proven by the plaintiffs. As to the award of attorney’s fees, the same must be deleted since the award of moral and actual damages are eliminated. Moreover, the lower Court did not give any justification for granting it in its decision. It is now settled that awards of Attorney’s fees must be based on findings of fact and law, stated in the decision of the Court a quo. (Supercars Management and Development Corp. et. al. vs. The Late Filemon Flores, et. al., G.R. No. 148173, December 10, 2004.) Such finding of fact and law does not appear in the decision.

“To justify an award of actual damages, the amount of loss must not only be capable of proof but must actually be proven with reasonable degree of certainty, premised upon competent proof or best evidence obtainable of the actual amount thereto. (Luxuria Homes, Inc. vs. C.A. 302 SCRA 380)

“ACCORDINGLY, the decision appealed from is hereby affirmed with modification as to the award of damages. The Court believes that the environmental milieu does not justify such recovery of damages. The case involves, as it does, a fairly good legal question and there is no showing of gross and evident bad faith of the defendants-appellants.

“SO ORDERED.

“Pinamalayan, Oriental Mindoro

“November 9, 2005.

“RECTO A. CALABOCAL

“Executive Judge”

Taking exception thereto, therein defendants-appellants, now the petitioners, instituted the present recourse, with petitioners now contending that the RTC erred in affirming or upholding the MTC.

This petition abounds with merit.

Relief by summary judgment is intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits. But if there be any doubt as to such facts, and if there be an issue or issues of fact joined by the parties, neither one of them can pray for a summary judgment. Where the facts pleaded by the parties are disputed or contested, the proceedings for a summary judgment cannot take the place of a trial.[7]Here, the petitioners had convincingly demonstrated that the defense/s raised in his answer by their predecessor-in-interest, Jeremias Ulayao, are substantially factual as to require, or necessitate, or call for, a full-blown trial on the merits of the case.

Notably, the late defendant Jeremias Ulayao raised the following affirmative defense/s in the answer he filed with the MTC of Gloria Bansud, Oriental Mindoro.:

“1. Defendant is the lawful owner and possessor of the land subject matter of this case, legitimately acquired through acquisitive prescription through long, continuous, adverse and notorious possession for more than thirty (30) years;

“2. The property in question abuts a natural creek where water freely flows, adjoining the registered property of defendant which, through the years of continuous accretion as well as the reclamation efforts of defendant who had made considerable investments in terms of truckloads of boulders, gravel and soil dumped into the area, thus, transforming the same into usable commercial piece of property;

“3. Despite defendant’s ownership and open possession of the property which is along the national highway and within the Poblacion of Bansud, Oriental Mindoro, a certain PAULINA LUSTERIO, plaintiff’s predecessor in utter bad faith, surreptitiously filed a free-patent application with the Office of the Community Environment and Natural Resources of Socorro, Oriental Mindoro, for the purpose of registering defendant’s property in her name, which application was denominated as FPA No. (IV-20) 3378; 2299, covering Lot No. 1174, CAD. 645-D Bansud, Oriental Mindoro;

“4. Upon learning of said surreptitious free-patent application of PAULINA LUSTERIO filed in bad faith with the CENRO, defendant JEREMIAS ULAYAO immediately filed a protest to the said application;

“5. The office of the CENRO, through MR. LEON B. ABAD, after formal investigation and hearing, submitted its comment and observation dated September 21, 1992, stating among others that –

“6. Defendant’s long and continuous possession is bolstered by the presence of his house and other permanent structures and visible living improvements thereat, factors which would negate plaintiff’s hallow claim of ownership and possession; ‘There can be no further argument as regards protestant’s allegation that he was at the time the questioned free patent title was issued to respondent Lusterio, already in the actual occupation and possession on the land. The facts adduced during the ocular inspection heavily attest to this. It is thus safely and conclusively affirmed that respondent Lusterio, indeed, was not and never has been in occupation and possession thereof, contrary to her declaration.

‘Verily, irregularity had attended the issuance of the questioned title (Original Cert. of Title No. P-4845). The investigation thus made following the protest filed by Ulayao against the same unearthed certain untruthful statements and declarations that only serve to justify the revocation or cancellation thereof.

‘RECOMMENDATION:

‘WHEREFORE, it is respectfully recommended that a petition for revocation of Original Certificate of Title No. P-4845 in the name of respondent Lusterio be filed before the Court of competent jurisdiction in order that the land covered thereby may be reverted to the state.’

“7. By the very nature of the action, this Honorable Court, speaking with all due respect and humility, HAS NO JURISDICTION to entertain the present suit, which perhaps may fall within the domain of the Regional Trial Court; “8. Venue has been improperly laid.”

It is thus beyond cavil, doubt or dispute that therein defendant Jeremias Ulayao, did indeed interpose the defense of acquisitive prescription in his answer: therefore, he ought to have been accorded a full-blown trial, and ought to have been duly heard, on this plea. For the plea of acquisitive prescription inevitably involves the issue of actual and physical and material possession,-- and actual and physical and material possession is always a question of fact. It is always a question of fact because it submits to the consideration of the trial court such factual and material, and substantive and substantial issues or questions as: the character of the actual and material and

physical possession of the disputed premises (viz., whether it was in good faith or in bad faith, or a mixture of these two); how long or how many years did it span; how was it exercised or asserted; who exercised or asserted it; and such other germane or cognate issues or questions, like the payment of realty taxes, if any, and who paid them — and how were the realty taxes paid — which would naturally necessitate, or require, for their resolution or adjudication, the presentation of pertinent, competent and material evidence bearing thereon. Indeed, in the very nature of things, there can be no prescription without possession? and possession, to belabor a point, is always a question of fact. Indeed, Art. 538 of the Civil Code of the Philippines provides that:

“ART. 538. Possession as a fact cannot be recognized at the same time in two different personalities except in the cases of co-possession. Should a question arise regarding the fact of possession, the present possessor shall be preferred; if there are two possessors, the one longer in possession; if the dates of the possession are the same, the one who presents a title; and if all these conditions are equal, the thing shall be placed in judicial deposit pending determination of its possession or ownership through proper proceedings.”

Upon this score and for this reason alone, the rendition of a summary judgment in this case, whether partial or total, would be utterly improper, inappropriate or unwarranted. Quite illuminating, for purposes of a fair and rational resolution of the case at bench, is the following pronouncement of the High Tribunal in *Gatchalian v. Pavilin*:^[8]

“In their joint answer, appellants not only denied all the material facts and allegations of the complaint but also made 'Affirmative and Alternative Defenses' with 'Counterclaim', with special emphasis on the fact that said Certificate of Title No. P-31 is null and void ab initio, the same being a forest land at the time it was allegedly bought in 1947 by plaintiff-appellee. Furthermore, appellants claim in their answer that 'the alleged landholding and title of the plaintiff could not have covered defendant's landholding' (paragraph 2, Affirmative and Alternative Defenses); that their predecessors-in-interest, in good faith, took possession, made clearings, cultivations, and improvements thereon for several years long before 1953, openly, continuously, exclusively, publicly and peacefully, on concept of owners thereof, with intention of acquiring later on their respective land titles over the same from the Bureau of Lands, in the manner provided by law, as soon as it is released by the Bureau of Forestry. In attempting to perfect their claim over their landholdings, appellants claim in their answer and submitted affidavits that they had filed and paid for their homestead entry applications, entered and numbered as H.A. Nos. V-68296; V-68301; V-68382; and V-68298 (Exhibits 3 and 4, pp. 57-58 and 63-65, Record on Appeal), after the said land was actually released by the Bureau of Forestry to the Bureau of Lands on 17 May 1954, several years before plaintiff's patent was issued by that Bureau.

“Upon motion of the plaintiff, and overruling the objections of the defendants, the court below declared that there was no genuine issue of fact in so far as the title to the property was concerned, and granted summary judgment in her favor, ordering defendants to vacate the land. In a supplementary decision, plaintiff was awarded damages to be paid by defendants.

“Their motions for reconsideration having been rejected, defendants appealed to this Court.

“The theory of plaintiff-appellee, accepted by the Court a quo, is that the defendants-appellants' pleadings raised no genuine issue of fact. We find this contention unwarranted.

“Our examination of the pleadings and affidavits submitted for the defendants reveals that while inartistically drawn, they interpose two main defenses: (1) that their landholdings lay outside the title of the plaintiff; and (2) that if her title did cover their landholdings, the title was acquired illegally, because at the time the plaintiff's sales patent was issued, the land covered was still part of a forest reserve. While such defenses are to a certain extent incompatible inter se, it can not be said that they raise no genuine issue of fact. It must be remembered that section 9 of Rule 15 specifically authorizes the pleading of alternative or hypothetical defenses, and the decisions of this Court hold that such defenses may be inconsistent with each other provided each is consistent in itself. (*Castle Bros. vs. Go Juno*, 7 Phil. 144; *Heirs of Marquez vs. Valencia*, 52 Q.G. 6176; *I Moran*,

Comments on the Rules of Court, 1957 Ed., pp. 234-235).

“In view of the circumstances, the following notes that former Chief Justice Moran (cf. cit.) has made on the rendition of summary judgments under the Federal Rules are apposite and fully applicable to the case now before us:

“A summary judgment should not be granted unless the facts are clear and undisputed, and if there is a controversy upon any question of fact, there should be a trial of the action upon its merits (Kissick Construction Co. vs. First National Bank of Wahoo, Nebraska, 6 Fed. Rules Service, 56c. 41, Dec. 3, 1940).” (Moran's Comments on the Rules of Court, Vol. 1, p. 600, 2nd Ed.)

“Authority of court to enter summary judgment.- Rule 56 (in this jurisdiction Rule 36, sec. 3) does not vest in the court jurisdiction summarily to try the issues on depositions and affidavits, but gives the court limited authority to enter summary judgment only if it clearly appears that there is no genuine issue of material fact. Upon a motion for summary judgment the Court's sole function is to determine whether there is an issue of fact to be tried, and all doubts as to the existence of an issue of fact must be resolved against the moving party. On a motion for summary judgment the court is not authorized to decide an issue of fact, but is to determine whether the pleadings and record before the court create an issue of fact to be tried. In other words, the rule (Rule 36, sec. 3) does not invest the court with jurisdiction summarily to try the factual issues on affidavits, but authorizes summary judgment only if it clearly appears that there is no genuine issue as to any material fact.” (Moran, supra. p. 603).

“Movant has burden of showing absence of genuine issue.- A party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, and any doubt as to the existence of such an issue is resolved against the movant. The courts are quite critical of the papers presented by the moving party, but not of the opposing papers. Thus, in ruling on a motion for summary judgment the court should take that view of the evidence most favorable to the party against whom it is directed, giving that party the benefit of all favorable inferences. That one may surmise from plaintiff's showing that defendant is unlikely to prevail upon a trial is not a sufficient basis to assume that defendant's allegations are sham, frivolous or unsubstantial. If the defense relied upon by the defendant is legally sufficient and does not appear 'patently sham' the motion for summary judgment should be denied.” (Moran, supra, pp. 601-602)

“The conflicting claims of the parties plainly require the exact delimitation of the areas covered by the title of the plaintiff and those occupied by the defendants in order to find out if they overlap. To do so, a trial is indispensable.” (at 510-512).

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition at bench is hereby GIVEN DUE COURSE and GRANTED. The summary judgment rendered by both trial courts is hereby VACATED and SET ASIDE, and this case is hereby remanded, for further proceedings, to the MTC of Bansud-Gloria, which is hereby directed to conduct a full-blown-trial on the merits, and to thereafter render judgment thereon conformably to the evidence and the law. Without costs.

SO ORDERED.

Carandang and Arevalo-Zenarosa, JJ., concur.

[1] Rollo, pp. 72-76. Penned by Executive Judge Recto A. Calabocal.

[2] Id., pp. 43-45. Penned by Judge Antonio L. Baldos.

[3] Id., pp. 20-23.

[4] Id., pp. 26-31.

[5] Id., pp. 34-36.

[6] Id., pp. 46-55.

[7] Vide: *Singleton v. Philippine Trust Co.*, 99 Phil. 91 (1956).

[8] Penned by Justice J.B.L. Reyes, No. L-17619, October 31, 1962, 6 SCRA 508, 510-512.

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