

MELCHOR BOJANGIN, JR., PETITIONER, VS. VICTORIANO ENCARNACION, RESPONDENT.

Ponente: BARRIOS, J.

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BARRIOS, J.:

In this Petition for Review, the petitioner Melchor Bojangan, Jr. (or Bojangan for brevity) asks that the decision of the Regional Trial Court (or RTC) stationed in Cauayan City, Province of Isabela, which affirmed in toto the judgment favorable to the respondent Victoriano Encarnacion (or Encarnacion) rendered by the Municipal Trial Court (or MTC) of the same place, be reversed and set aside.

The subject of contention of this suit are two parcels of land with a combined area of 707 square meters, covered by Transfer Certificates of Title Nos. T-206050 and T-206051 issued by the Register of Deeds of Isabela in the name of Encarnacion. These two TCTs were derived from Original Certificate of Title No. P-62724, also issued in the name of Encarnacion.

On March 2, 2001, Encarnacion filed a case for Ejectment, Damages with Injunction and Prayer for Restraining Order (Annex “F”, pp. 47-51, rollo) against Bojangan alleging that he refused to vacate his said lots.

Tracing the ownership of these properties before they were subdivided, Encarnacion averred that Rogelio Valiente was the original owner of the property and sold this to Nicasio Mallapitan on January 18, 1982. Nicasio Mallapitan then sold it on March 21, 1985 to Victoriano Magpantay, the father-in-law of Encarnacion. On April 11, 1995 Victoriano Magpantay’s wife Anita waived her rights and interest over the properties in favor Encarnacion. On the basis of the Waiver of Rights, Encarnacion filed his public land application before the DENR Office of Cauayan, Isabela, averring that he and his father-in-law have been in actual possession of the property since 1985 and that he had been paying the real taxes thereon.

According to Encarnacion, in the latter part of 1985 Bojangan without permission entered a portion of the properties and which he has been occupying up to this time without any consideration and for a while upon their tolerance. A demand was already since made by Encarnacion on Bojangan on February 1, 2001 to vacate the premises, but he refused to do so. Encarnacion referred the matter to the barangay authorities in District 1, Cauayan, Isabela, but no settlement was reached hence a Barangay Certification to File Action was issued. Encarnacion sought the help of a lawyer who sent a demand letter to Bojangan to leave the premises but still he refused to yield. Resultantly, the present action was filed. He alleged that the continued stay of Bojangan in the premises causes him great and irreparable injury hence his possession should be immediately restored.

While admitting that TCT No. T-206050 and TCT No. 206051 were issued in the name of Encarnacion, Bojangan nevertheless attacked its validity and claimed that their issuance was tainted with vices and defects which is why he has filed a protest with the Community Environment and Natural Resources Office (CENRO), Department of Environment and Natural Resources (DENR) in Cauayan, Isabela. Amplifying on his allegations that the TCTs were obtained in bad faith, Bojangan averred that the free patent application of Encarnacion on these lots were supported by perjured and falsified documents. He added that the Deed of Sale was disowned by Rogelio

Valiente, the original seller.

Convinced that it was Encarnacion who is entitled to the possession of the disputed lots, the MTC on October 24, 2001 resolved the dispute in his favor in the decision which disposed that:

WHEREFORE, there being a preponderance of the evidence, a JUDGMENT is hereby rendered in favor of plaintiff VICTORIANO M. ENCARNACION and against defendant MELCHOR BUHANGIN as follows:

- a) ORDERING the defendant to vacate the portion of the parcels of land described in Transfer Certificate of Titles No. T-256650 and T-256651 he is now occupying and surrender it to the plaintiff;
- b) ORDERING the defendant to pay plaintiff the sum of FIVE THOUSAND PESOS (P5,000.00) as Attorney's fees;
- c) ORDERING the defendant to pay rentals equivalent to P500.00 per month from February 2001 until the portion of the land occupied by him is surrendered to the plaintiff;

COSTS against defendant. (p. 17, rollo)

This was appealed to the RTC. But finding that there was no reversible error committed, the RTC rendered judgment on July 26, 2002 where it was AFFIRMED IN TOTO (p. 20, rollo). A motion for its reconsideration was filed but this too was DENIED in the Order dated September 30, 2002 (p. 37, rollo).

Still unwilling to abide and let go, Bojangan has come to Us on petition for review and asks for a reversal relying on the sole ground that:

THE HONORABLE TRIAL COURT HAS ERRED IN AFFIRMING IN TOTO THE FINDINGS OF THE COURT A QUO AND IN NOT DISMISSING THE CASE FOR LACK OF JURISDICTION OVER THE SUBJECT MATTER. (p. 4, rollo)

First things first. Indeed the complaint states a cause of action for Unlawful Detainer, and the MTC and thence the RTC had jurisdiction over the case. The complaint alleges that Encarnacion is the titled owner of lots portions of which are in the possession of Bojangan through his tolerance which he has since withdrawn, but Bojangan refused to vacate and so Encarnacion sued him within the year that he made his last demand on February 1, 2001. Assuming, as We must, the truth of these for the nonce, the allegations obviously show the elements of unlawful withholding of property constitutive of unlawful detainer. They also conferred initiatory jurisdiction on the MeTC, because the case was filed within the one-year prescriptive period (*Umpoc vs. Mercado*, G. R. No. 158166, Jan. 21, 2005). It does not matter that Bojangan has raised as a principal issue the matter of ownership. The said courts are not divested of jurisdiction over such cases even if the defendants therein raises the question of ownership over the litigated property in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership (*Santos vs. Ayon*, G. R. No. 137013, May 6, 2005).

Going further, this Court finds there was sufficient bases for the courts a quo in arriving at their judgment.

Tacking his possession of the properties with that of his predecessors-in-interest and considering the titles thereon issued in his name, Encarnacion has well proven his superior right as against Bojangan. Once the title is registered under the Land Registration Law, owners can rest secure on their ownership and possession (*Tichangco vs. Enriquez*, 433 SCRA 324). Being the registered owner, Encarnacion thus acquired and has a better right to the possession of the subject lot. While it is true that Bojangan is assailing the titles issued in his favor, Encarnacion in the meantime still enjoys his plenary rights as owner of the properties unless and until these titles are declared a nullity by a court of competent jurisdiction.

The alleged invalidity of Encarnacion's title is not a hindrance to his recovery of the possession from Bojangin. A certificate of title is not subject to collateral attack. Hence the issue of whether a title was procured by falsification or fraud should be raised in an action expressly instituted for the purpose (*Foster-Gallego vs. Galang*, G. R. No. 130228, July 27, 2004). Also, if a property covered by a Torrens title is involved as in this case, the presumptive conclusiveness of such title should be given due weight, and in the absence of strong compelling evidence to the contrary, the holder thereof should be considered the owner of the property in controversy until his title is nullified in an appropriate ordinary action (*Pacioles Jr. vs. Chuatoco-Ching*, G. R. No. 127920, August 9, 2005).

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

SO ORDERED.

Guariña, III and Romilla-Lontok, JJ., concur.

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