

**PERRY CONVICTO-ESTOCONING AND DONDIE B. CONVICTO,
PETITIONERS, VS. HON. EVANGELINE S. YUIPCO-BAYANA,
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 31, DAPA,
SURIGAO DEL NORTE, A...**

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a Petition for Certiorari and Prohibition with Temporary Restraining Order[1] which assailed the following Orders both issued by the Regional Trial Court, Branch 31, Dapa, Surigao del Norte, to wit:

- Order dated January 14, 2010[2] which denied the Motion to Dismiss the Complaint; and
- Order dated December 22, 2010[3] which denied the Motion for Reconsideration.

The salient facts are:

Private respondents, Heirs of Zosima Gonzales, represented herein by Santiago Gonzales, claiming ownership of a property covered by Tax Declaration No. 4251 filed the present action for quieting of title and damages. Private respondent alleged among others:

“xxx

- That Plaintiff is the possessor and owner of a certain parcel of land as evidenced by herein Tax Declaration No. 4251 year 1998 marked as Annex “A” which particularly described as follows:

“A parcel of coco land situated in the Sitio Pagao, San Roque, Pilar, Surigao del Norte, bounded as follows: North, Quillope Salvaloja; East, Pedro Escuyos; South, Pedro Escuyos; West, Crispen Noguerra; containing an area of 2.000 has., with an assessed value of P12,270.00 covered by Tax Dec. No. 4251 year 1998, declared as owner in the of Zosimo Gonzales and the administrator as Santiago Gonzales”;

- That Defendants Abundia Convicto, Soriana vda. de Convicto, Jacquelyn C. Wilson, Perry C. Estoconing, Dondie Convicto, Mr. Wilson, Arito S. Convicto, alleged to be owners of a parcel of land declared under the name of VICENTE CONVICTO on tax declaration No. 4837 year 2006, copy of which is hereto attached as Annex “B”, and who attempted to occupy a portion of land which is in actual possession of Plaintiff, by destroying the fence surrounding it, under brushing the said portion of the land and planting some banana seedlings;

- That this particular land has been declared since 1939 under the name of Zosimo Gonzales xxx and an area of about 0.6218 has. xxx was added to the area declaration under tax declared marked as Annex “B”;

- That historical data of Tax Dec. No. 4251 xxx, showed that there was no conveyance nor transfer of ownership made by the parties hereto or its predecessor’s in interest; xxx, until the general revision was made by the Assessor’s Office on the basis of the erroneous cadastral survey made on the area without the presence of the

Plaintiff or his representative and now on the records of the DENR Sub-Office, Dapa, Surigao del Norte;

- That the reduction of the area coverage of ownership of Zosimo Gonzales of about 0.6216 has. that correspondingly increased the area coverage of ownership of Vicente Convicto now casted clouds both on the respective interest/ownership of herein parties, thus Plaintiff desires to quiet the said record of interest and ownership over these parcels of land in order to reflect and describe the true area of coverage of interest and ownership as actually possessed;

- That xxx this action has been brought for the courts intervention to remove the cloud or to quiet title on the interest;

xxx

- That because of such changes on the area on the respective tax declarations, Defendants maliciously destroy the erected fences in the boundary as delineation of its ownership just to suit the area on the record, which causes actual damages to the Plaintiff in the amount of more or less P10,000.00;

xxx

- That by reason of such hostile actions and the reduction on Plaintiff's land xxx, the Former suffers anguished feelings, anxiety and sleepless nights, hence prays to claim for moral damages in the amount of P40,000.00 and exemplary damages of P10,000.00;

- That because of Defendant's conduct of refusing to execute a waiver of ownership over the portion of land subject of this case even if demanded, Plaintiffs were forced to litigate this case, in the process incurring actual expenses in the sum of P10,000.00, by way of attorneys fees in the sum of P20,000.00, and litigation fee and cost in the course of the trial.

WHEREFORE, it is respectfully prayed that, judgment be rendered ordering the Defendants Heirs of Vicente Convicto to cause its correction by executing a waiver of such portion of land and direct the Municipal Assessor of Pilar municipality and DENR-Dapa Sub Office to correct the delineation and boundary on its records, correspondingly.

Likewise, it is prayed the Defendants Heirs of Vicente Convicto be ordered to pay the damages, actual expenses and attorneys fees in a sum of not less than P100,000.00 aside from the cost of litigation during the trial.

xxx.”[4]

Petitioners, in their Answer[5] to the Complaint, denied all the allegations therein. They asserted that the property described in Tax Declaration 4837, which is designated as Lot 6540, Cad. 789-D, has an area of 1.5625 hectares based on a validly survey of the DENR.

Also, petitioners claimed that the tax declaration of the property claimed by private respondents does not show that the latter's lot is bounded on any side by their lot. Their respective lots are neither adjacent to each other. Thus, according to petitioners, it cannot be said that 0.6218 hectares was deducted from private respondents' lot and added to their lot.[6]

In addition, petitioners averred that, as the subject property has an assessed value of only P12,270.00, jurisdiction lies with the Municipal Trial Court, and not with the court a quo.[7]

Finally, petitioners lamented that regular courts have no jurisdiction over the instant case. They claimed that

disputes as to the correct measurements of the subject lot, which was allegedly classified as timberland by the DENR, have to be resolved in an appropriate administrative proceeding at the DENR level.[8]

Hence, their prayer for the dismissal of the case.

The Pre-trial conference was accordingly terminated raising an issue of jurisdiction of the court a quo. Consequently, the court a quo required the parties to submit Position Paper on the matter of jurisdiction.

On January 14, 2010, the court a quo issued the first assailed Order which denied the motion to dismiss of the petitioner. It ratiocinated that:

“Simply, they claim that the instant complaint is sought for the court to remove the clouds or to quiet the title, and the boundary delineation is necessary to do the same; that it is not merely the amount of property to be considered, nor a boundary dispute, but rather, it is more of removing the cloud or quieting the title of the subject property which is incapable of pecuniary estimation thus within the legal competence of this Court.

xxx

Indeed, the present dispute pertains to the title, possession and interest of each of the contending parties over the contested property the assessed value of which falls within the jurisdictional range of the MTC. Nonetheless, the nature of the action filed, the allegations set forth, and the reliefs prayed for, forestall its cognizance by the MTC.

As can be readily gleaned from the records, the complaint was for ‘Quieting of Title and Damages.’ Plaintiffs alleged therein that they were the possessors and owners of a certain parcel of land situated in Sitio Pagao, San Roque, Pilar, Surigao del Norte as evidenced by Tax Declaration No. 4251 year 1998; that this particular land has been declared since 1939 under the name of Zosimo Gonzales; and that the historical data showed no reconveyance nor transfer of ownership made by the plaintiff or its predecessor’s in interests. Plaintiff’s also sought payment of actual damages, moral damages, exemplary damages, litigation expenses, attorney’s fees plus appearance fees amounting to P90,000.00.

Clearly, this is a case of joinder of causes of action which comprehends more than the issue or removing the cloud or quieting the title of the subject property which is incapable of pecuniary estimation and thus properly within the jurisdiction of this Court.

If the only issue involved herein is naked possession or bare ownership, then defendants would not be amiss in their assertion xxx. But as herein before stated, the issue of title, ownership and/or possession thereof is intertwined with the issue of reconveyance and damages, hence, within the ambit of the jurisdiction of this Court. The assessed value of the parcel of land thus becomes merely an incidental matter to be dealt with by the court, when necessary, in the resolution of the case but is not determinative of its jurisdiction.”[9]

The subsequent Motion for Reconsideration having been denied on December 22, 2010, hence this instant Petition for Certiorari raising the following issues, to wit:

“I

WHETHER OR NOT REGULAR COURTS HAVE JURISDICTION INVOLVING DISPUTES ON LANDS OF PUBLIC DOMAIN

II

WHETHER OR NOR REGIONAL TRIAL COURT HAS JURISDICTION OVER THE COMPLAINT FOR QUIETING OF TITLE WHERE THE ASSESSED VALUE IS LESS THAN P20,000.00[10]

This Court deems it proper to resolve first the issue on which has jurisdiction on actions for quieting of title and for reconveyance.

This issue is not novel as it has been laid to rest in a spate of cases decided by the High Court.

The nature of actions for reconveyance or actions to remove cloud on one's title, says the Supreme Court, brings to fore the application of Section 19(2) of B.P. 129, as amended by R.A. No. 7691,¹¹ thus:

Section 19. Jurisdiction in Civil Cases.-- Regional Trial Courts shall exercise exclusive original jurisdiction: x
x x

(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

Its ruling in the case of *Valeriano S. Concha, Sr. v. Spouses Lumocso*^[12], a case where the petitioners therein insisted that their action for reconveyance is one that is incapable of pecuniary estimation under the exclusive original jurisdiction of the RTC pursuant to Section 19(1) of B.P. 129, is in fact instructive on this issue. The Supreme Court ruled therein that:

"Petitioners' contention that this case is one that is incapable of pecuniary estimation under the exclusive original jurisdiction of the RTC pursuant to Section 19(1) of B.P. 129 is erroneous.

In a number of cases, we have held that actions for reconveyance of or for cancellation of title to or to quiet title over real property are actions that fall under the classification of cases that involve "title to, or possession of, real property, or any interest therein."

The original text of Section 19(2) of B.P. 129 as well as its forerunner, Section 44(b) of R.A. 296, as amended, gave the RTCs (formerly courts of first instance) exclusive original jurisdiction "[i]n all civil actions which involve the title to, or possession of, real property, or any interest therein, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, [MTCs], and Municipal Circuit Trial Courts (conferred upon the city and municipal courts under R.A. 296, as amended)." Thus, under the old law, there was no substantial effect on jurisdiction whether a case is one, the subject matter of which was incapable of pecuniary estimation, under Section 19(1) of B.P. 129 or one involving title to property under Section 19(2). The distinction between the two classes became crucial with the amendment introduced by R.A. No. 7691 in 1994 which expanded the exclusive original jurisdiction of the first level courts to include "all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs." Thus, under the present law, original jurisdiction over cases the subject matter of which involves "title to, possession of, real property or any interest therein" under Section 19(2) of B.P. 129 is divided between the first and second level courts, with the assessed value of the real property involved as the benchmark. This amendment was introduced to "unclog the overloaded dockets of the RTCs which would result in the speedier administration of justice."

The cases of *Raymundo v. CA* and *Commodities Storage and ICE Plant Corporation v. CA*, relied upon by the petitioners, are inapplicable to the cases at bar. *Raymundo* involved a complaint for mandatory injunction, not one for reconveyance or annulment of title. The bone of contention was whether the case was incapable of pecuniary estimation considering petitioner's contention that the pecuniary claim of the complaint was only attorney's fees of P10,000, hence, the MTC had jurisdiction. The Court defined the criterion for determining

whether an action is one that is incapable of pecuniary estimation and held that the issue of whether petitioner violated the provisions of the Master Deed and Declaration of Restriction of the Corporation is one that is incapable of pecuniary estimation. The claim for attorney's fees was merely incidental to the principal action, hence, said amount was not determinative of the court's jurisdiction. Nor can Commodities Storage and ICE Plant Corporation provide any comfort to petitioners for the issue resolved by the Court in said case was venue and not jurisdiction. The action therein was for damages, accounting and fixing of redemption period which was filed on October 28, 1994, before the passage of R.A. No. 7691. In resolving the issue of venue, the Court held that "[w]here the action affects title to property, it should be instituted in the [RTC] where the property is situated. The Sta. Maria Ice Plant & Cold Storage is located in Sta. Maria, Bulacan. The venue in Civil Case No. 94-727076 was therefore improperly laid.

Worse, the cases of *Swan v. CA* and *Santos v. CA* cited by the petitioners, contradict their own position that the nature of the instant cases falls under Section 19(1) of B.P. 129. The complaints in *Swan* and *Santos* were filed prior to the enactment of R.A. No. 7691. In *Swan*, the Court held that the action being one for annulment of title, the RTC had original jurisdiction under Section 19(2) of B.P. 129. In *Santos*, the Court similarly held that the complaint for cancellation of title, reversion and damages is also one that involves title to and possession of real property under Section 19(2) of B.P. 129. Thus, while the Court held that the RTC had jurisdiction, the Court classified actions for "annulment of title" and "cancellation of title, reversion and damages" as civil actions that involve "title to, or possession of, real property, or any interest therein" under Section 19(2) of B.P. 129.

Petitioners' contention that the value of the trees cut in the subject properties constitutes "any interest therein (in the subject properties)" that should be computed in addition to the respective assessed values of the subject properties is unavailing. Section 19(2) of B.P. 129, as amended by R.A. No. 7691, is clear that the RTC shall exercise jurisdiction "in all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00)." It is true that the recovery of the value of the trees cut from the subject properties may be included in the term "any interest therein." However, the law is emphatic that in determining which court has jurisdiction, it is only the assessed value of the realty involved that should be computed. In this case, there is no dispute that the assessed values of the subject properties as shown by their tax declarations are less than P20,000.00. Clearly, jurisdiction over the instant cases belongs not to the RTC but to the MTC."

There is nothing more to be said. In the present case, the meat of the private respondents' contention was for the reconveyance of the 0.6216 hectares that was allegedly deducted from their alleged property and was claimed to have been added to the area of the property claimed by petitioners.

As it was without issue that the assessed value of the property involved herein is only P12,270.00, jurisdiction over the instant cases belongs to the MTC, not to the RTC. It goes without saying that indeed, the court a quo committed grave abuse of discretion amounting to excess of jurisdiction when it did not dismiss the instant case when it has no jurisdiction over the subject matter.

As regards the issue on whether or not regular courts have jurisdiction to settle disputes on public land, it suffices to say that the resolution of conflicting claims of ownership over real property is within the regular courts' area of competence and, concededly, this issue is judicial in character.[13] However, such power to resolve the issue of ownership is not conclusive given the public character of the land. It must be stressed that the powers given to the DENR, through the Bureau of Lands, to alienate and dispose of public land do not divest regular courts of jurisdiction over possessory actions instituted by occupants or applicants to protect their respective possessions and occupations.[14]

Also, one must remember that the application of the doctrine of primary jurisdiction, however, does not call for

the dismissal of the case below; it need only be suspended until after the matters within the competence of the DENR are threshed out and determined.[15] Said the Supreme Court in *Industrial Enterprises, Inc. v. Court of Appeals*,^[16] the principal purpose behind the doctrine of primary jurisdiction is salutarily served.

Here, whether or not the matters raised in the complaint and responsive pleading are within the competence of the DENR to thresh out and determine is a factual issue that should be resolved below.

WHEREFORE, viewed from the foregoing, the instant Petition for Certiorari and Prohibition is hereby GRANTED. The assailed Orders dated January 14, 2010 and December 22, 2010 are ORDERED SET ASIDE. The Complaint for Quieting of Title and Damages is hereby DISMISSED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Borja, J., Ch., and Badelles, JJ., concur.

[1] Rollo, pp. 4-22

[2] Rollo, pp. 43-46

[3] Rollo, pp. 61-62

[4] Rollo, pp. 24-27

[5] Rollo, p. 29

[6] Rollo, p. 30

[7] Rollo, p. 31

[8] Ibid

[9] Rollo, pp. 44-46

[10] Rollo, p. 10

[11] G.R. No. 158121, December 12, 2007

[12] Ibid

[13] *Bagunu v. Aggabao*, G.R. No. 186487, August 15, 2011

[14] Ibid

[15] *Id.*, citing *Phil Pharmawealth, Inc. v. Pfizer, Inc.*, G.R. No. 167715, November 17, 2010, *Industrial Enterprises, Inc. v. Court of Appeals*, G.R. No. 88550, April 18, 1990

[16] G.R. No. 88550, April 18, 1990

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