

BIENVENIDO VELARMA, PETITIONER, VS. COURT OF APPEALS AND JOSEFINA PANSACOLA, RESPONDENTS.*G.R. No. 113615. January 25, 1996*

Ponente: PANGANIBAN, J.

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Will the lot owner's agreement to sell the property to the government as evidenced by the minutes of a meeting of the Sangguniang Bayan, absent a formal deed, constitute a sufficient ground to defeat a forcible entry suit? This was the main question raised in this petition for review on certiorari which seeks to set aside the Decision dated January 26, 1994 of the Court of Appeals[1] in CA-G.R. CV No. 33332. By a Resolution dated October 25, 1995, this case, along with several others, was transferred from the First Division to the Third. After due deliberation on the submissions of the parties, it was assigned to undersigned ponente for the writing of the Court's Resolution.

This case arose from an "ejectment suit"[2] filed by private respondent against petitioner before the Regional Trial Court, Branch 64, Mauban, Quezon. Private respondent alleged: (1) that sometime in May 1981, petitioner surreptitiously built his dwelling on a portion of her land at Barangay Lual (Poblacion), Mauban, Quezon, registered under Transfer Certificate of Title No. T-91037 in the name of private respondent's husband Publio (deceased); (2) that the matter was reported to the Barangay Captain who conducted several conferences during which petitioner promised to vacate the land and remove his house therefrom, notwithstanding which he still failed or refused to do so; (3) that she instituted Criminal Case No. 1068 against petitioner in 1986 for violation of P.D. No. 772 (the Anti-Squatting Law); (4) that the trial court convicted petitioner of the offense and imposed a fine of P 1,500.00 on him; (5) that, despite such judgment, and notwithstanding repeated demands to vacate, petitioner continued occupying the property, compelling her to bring the suit.

The trial court in its nine-page judgment rendered on April 2, 1991 found that private respondent had satisfactorily established her ownership over the parcel of land in question. It also found that petitioner entered and occupied private respondent's land "without authority of law and against the will of the owner x x x through strategy and stealth." [3] Furthermore, it declared that the claim of petitioner that "by virtue of an agreement between the former owner (Publio Pansacola) and the Municipality of Mauban x x x the lot [being occupied by petitioner] became the property of the government, and therefore, [respondent] has no cause of action against [petitioner]" was "baseless and unwarranted," [4] since no deed had ever been executed to "perfect the deal" between the municipality and Publio for the exchange of a portion of the abandoned provincial road with a portion of the lot owned by Publio (on which was built petitioner's dwelling), such that the Pansacola spouses later demanded that petitioner vacate the land and sought the help of the barangay council. They eventually instituted the criminal case against petitioner for violation of the Anti-Squatting Law.

The trial court ordered petitioner to vacate the subject land, remove his house therefrom and pay private respondent exemplary damages and attorney's fees in the amounts of P2,000.00 and P3,000.00, respectively.

The Court of Appeals affirmed in toto the decision of the trial court. Hence, this petition.

Petitioner insists that private respondent has no cause of action against him because the land on which his house stands belongs to the government. Petitioner's dwelling is situated on the shoulder of the new provincial highway, part of which was constructed on a portion of the land belonging to and titled in the name of private respondent's husband. According to petitioner, "while it is conceded that the premises [occupied by him] is still within the area covered by [private respondent's] title, nonetheless, x x x [the subject premises] x x x already belong to the government by virtue of its exchange of the abandoned road and bridge."^[5]

Petitioner's claim is anchored on a document entitled "Minutes of the Meeting of the Sangguniang Bayan of Mauban, Quezon" dated November 5, 1974. Therein, Publio Pansacola signified before the Sangguniang Bayan of Mauban his agreement to the transfer of that portion of his land traversed by the new provincial highway and its shoulder in exchange for a corresponding portion of the old abandoned provincial road.

As found by the trial court, the said minutes of the meeting of the Sangguniang Bayan do not mention the execution of any deed to perfect the agreement. An engineer was appointed to survey the old abandoned road, but this act does not in any manner convey title over the abandoned road to the Pansacola spouses nor extinguish their ownership over the land traversed by the new provincial highway. No evidence was introduced by petitioner to show that the survey was actually undertaken and a specific portion of the abandoned road partitioned and conveyed to the Pansacolas. It must be stressed that the agreement to transfer the property was made in 1974. More than twenty years later, no actual transfer had yet been made. Unless and until the transfer is consummated, or expropriation proceedings instituted by the government, private respondent continues to retain ownership of the land subject of this case.

We note that the ejectment suit should have been filed before the Municipal Trial Court, and not the Regional Trial Court. The issue of ownership, however, had been specifically raised before the Regional Trial Court by petitioner himself, who at the same time did not move to dismiss the complaint for lack of jurisdiction. Instead, he filed his answer and went to trial. Estoppel by laches has already set in at this point in time.^[6]

Petitioner also challenges the findings of the respondent Court that prior referral to the Lupong Barangay had been made before the ejectment case was filed in the lower court, and that therefore, the trial court properly acquired jurisdiction over the case. We agree, however, with the trial court's finding that –

"The compliance (with) the provision of P.D. No. 1508, Katarungang Pambarangay Law, can no longer be assailed by the defendant [herein petitioner], its reference having been admitted (in) his affirmative allegations and affirmative defenses in the Answer (page 3, par. 3.3 of defendant's answer)."^[7] (italics supplied)

Other issues raised had already been adequately traversed and disposed of by the appellate Court.

IN VIEW OF THE FOREGOING, the petition is DENIED, with costs against petitioner.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Fourth Division, composed of J. Asaali S. Isnani, ponente, and JJ. Nathanael P. De Pano, Jr. (chairman) and Corona Ibay-Somera.

[2] Civil Case No. 0371-M, filed on June 24, 1987; Judge Antonio O. Cabungcal, presiding.

[3] RTC Judgment, p. 9; Rollo, p. 39.

[4] RTC Judgment, pp. 6 & 7; Rollo, pp. 36 & 37

[5] Petition, p. 9; Rollo, p. 15.

[6] Romualdez vs. Regional Trial Court, Br. 7, Tacloban City, et al, 226 SCRA 408 (September 14, 1993); Pantranco North Express, Inc. vs. Court of Appeals, et a'., 224 SCRA 477 (July 5, 1993).

[7] RTC Judgment, p. 8; Rollo, p. 38.

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