NEPOMUCENA BRUTAS, PETITIONER, VS. COURT OF APPEALS AND JOSE RADONA, SR., JOINED BY HIS WIFE, FELICIANA RADONA, RESPONDENTS.

G.R. No. 123213. November 15, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition assails the decision[1] dated November 15, 1995 of the Court of Appeals in CA-G.R. SP No. 37682 and its resolution[2] dated January 8, 1996, denying petitioner's motion for reconsideration. The respondent appellate court had affirmed the decision dated June 6, 1995 of the Regional Trial Court of Iba, Zambales, Branch 71, in Civil Case No. RTC-1109-I, which earlier upheld the judgment dated December 8, 1994 of the 2[nd] Municipal Circuit Trial Court of Masinloc and Palauig, Zambales, in Civil Case No. 579, for unlawful detainer. We gave due course to the petition in order to scrutinize closely this case and avoid a possible instance of gross injustice to a landless woman being driven out of hearth and home.

The facts of the case are not complicated. On July 20, 1994, spouses Jose and Feliciana Radona, Sr., as plaintiffs filed a complaint for ejectment before the Municipal Circuit Trial Court of Palauig and Masinloc, Zambales, against herein petitioner Nepomucena Brutas. The spouses alleged that they are the legal owners and possessors of a parcel of land situated at Locloc-Balite, Palauig, Zambales, containing an area of 4.0758 hectares. The land is bounded on the North and East by Barrio Road and on the West and South by Sancho C. Abasta. In the complaint, the spouses averred that an area containing 650 square meters on the southwestern portion of said land has been in the possession of petitioner since the time petitioner separated 4 or 5 years ago from their son Jose Radona, Jr., who was her common-law husband. They added that it was only because of their tolerance that she was allowed to remain where she has her house in said area, which is identifiable and is separated from the rest of the spouses' land by fences.[3]

In her answer, petitioner admitted that indeed there was a letter sent to her by private respondents demanding that she vacate the land. She, however, questioned their authority to demand that she leave. She averred that Jose Radona, Sr., was not the legal owner nor was he in actual possession of the area in question. She pointed out that Radona, Sr., lived outside of the property she occupies, namely Lot No. 1083 with OCT No. P-11962, titled in the name of Alfredo Apuyan. She said that in 1973, she was made Apuyan's caretaker of said property. According to her, private respondents' son, Jose Radona, Jr., with whom she had a common-law relationship, lived with her in the house built in the lot owned by Apuyan until Jose, Jr., separated from her and constructed his own house sometime in 1991 to live with a new wife.[4] She added that Apuyan allowed Radona, Jr., to build a house elsewhere on Apuyan's land.[5]

On December 8, 1994, the Municipal Circuit Trial Court rendered a decision in favor of spouses Radona, but against Nepomucena Brutas, as follows:

> WHEREFORE, pursuant to the Rule on Summary Procedure, judgment is hereby rendered:

> a) Ordering the defendant and all persons claiming rights under her to vacate the land mentioned in paragraph 3 of the complaint and which is on the southwestern portion of the land described in paragraph 2,...and surrender the possession thereof to the plaintiffs;
>
> b) Dismissing the claim of the plaintiffs for attorney's fees as well as the defendant's counterclaim for damages and attorney's fees for lack of legal and factual basis;
>
> c) Ordering the defendant to pay the plaintiffs the costs of this suit as follows:
>
> Filing fee - P100.00; Process Server's fee - P50.00;
>
> Legal Research Fund - P10.00.
>
> SO ORDERED.[6]

From said decision, petitioner appealed to the Regional Trial Court of Iba, Zambales, which in turn upheld the decision of the MCTC, as follows:

> WHEREFORE, premises considered, the Court finds no reason to reverse the findings of the Court a quo and hereby affirms its decision dated 8 December 1994.
>
> SO ORDERED.[7] (Stress supplied.)

Undeterred, petitioner filed a petition for review with the Court of Appeals. The appellate court denied the petition for lack of merit, reasoning as follows:

> Despite the fact that the property is titled in the name of Alfredo Apuyan, We find this evidence insufficient to rule in favor of petitioner. For one thing, the title in the name of Alfredo Apuyan was issued only very recently, or on July 7, 1993. For another, in actions of forcible entry and detainer, the main issue is possession de facto independently of any claim of ownership or possession de jure that either party may set forth in his pleading. In other words, the issue is who is entitled to the physical or material possession of the premises, or who between litigants has a better right to physical possession.[8]

Hence this petition, where petitioner assigns to the appellate court the following errors:

> - THE RESPONDENT APPELLATE COURT COMMITTED A GRAVE MISAPPREHENSION OF THE FACTS WHEN IT HELD AS INSUFFICIENT PETITIONER'S EVIDENCE OF HER RIGHT TO POSSESSION OF THE SUBJECT PROPERTY EVEN IF ALFREDO APUYAN'S TITLE WAS ISSUED ONLY ON JULY 7, 1993, THUS CLEARLY OVERLOOKING PETITIONER'S CLEAR, AMPLE AND SUBSTANTIAL EVIDENCE SHOWING THAT ALFREDO APUYAN - WHO APPOINTED PETITIONER AS CARETAKER OF THE PROPERTY - HAS BEEN IN POSSESSION OF THE SAID PROPERTY LONG BEFORE THE ISSUANCE OF THE TITLE ON JULY 7, 1993.
>
> - THE RESPONDENT APPELLATE COURT COMMITTED A GRAVE REVERSIBLE ERROR WHEN IT RULED THAT THE POSSESSION OF PETITIONER WAS ONLY BY MERE TOLERANCE OF THE PRIVATE RESPONDENTS, AND THAT SHE COULD NOT HAVE FENCED THE PROPERTY AS A CARETAKER OF ALFREDO APUYAN BECAUSE THE LATTER'S TITLE WAS ISSUED ONLY ON JULY 7, 1993 AND IN HOLDING THAT PRIVATE RESPONDENTS HAVE BETTER PHYSICAL POSSESSION TO THE PROPERTY THAN THE PETITIONER, CONTRARY TO THE ABUNDANT EVIDENCE OF PETITIONER.[9]

Clearly, the principal issue for our consideration is: May petitioner Nepomucena BRUTAS as caretaker of the titled landowner (APUYAN) be ejected by the RADONAS as claimants to the land in question?

Petitioner alleged that the factual findings of the lower courts, which were affirmed by the Court of Appeals, were

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based on a misapprehension of facts and contradicted by the evidence on records and if reviewed would show that petitioner has a better right than private respondents to possess the 650 sq. m. portion she now occupies. She contended that the appellate court manifestly overlooked and arbitrarily disregarded petitioner's evidence that since 1911, Apolinario Apuyan, Alfredo Apuyan's father and predecessor-in-interest, had already been in continuous physical possession of the property and had already applied for free patent over the subject property, and after his death in 1945, the possession of the property was continued by Alfredo Apuyan, who appointed her as caretaker. She insisted that Alfredo continued and pursued his father's application for a free patent, which was ultimately issued in his favor on July 7, 1993, and evidenced by OCT No. P-11962 (Free Patent Title No. 037108-93-3230), covering 55,860 sq. m.[10] She presented a certification of the officials of CENR Officer, Department of Environment and Natural Resources, Masinloc, Zambales, attesting that Alfredo Apuyan occupied the land, long before the cadastral survey of the property was made for the heirs of Apolinario Apuyan as against a claimant by the name of Agapito Abdon.[11] She showed Alfredo Apuyan's affidavit designating her as caretaker of the property.[12] In considering her petition, we note that the Radonas are not the titled owners of the lot in question. Nor are they in possession of the area containing 650 square meters where petitioner now has a house. Her area is fenced and separate from the land of the private respondents. Rather said area is within the land titled and owned by Alfredo Apuyan, and he is in full control and possession of this area personally and through his caretaker, the petitioner.

Private respondents commented, however, that respondent appellate court did not err in concluding that petitioner was in possession of the 650 sq. m. portion of the land, which she fenced with a barb wire, only out of Radonas' tolerance. Private respondents disputed the fact that petitioner has been the caretaker of Apuyan since 1973, because Apuyan acquired the title to the land only on July 7, 1993. Private respondents added that petitioner thought of claiming she was the caretaker of Apuyan out of spite, and only after private respondents filed a case[13] against Apuyan for the cancellation of the latter's title allegedly because it was fraudulently acquired. Private respondents alleged that petitioner filed the case after Jose Radona, Jr., her former common-law husband, tried to remove the barbed wire fencing the land she was occupying. She had complained of this removal of the wire in a malicious mischief case she filed against Jose Radona, Jr.[14] Private respondents pointed out that petitioner did not deny that her house was built by her former common-law husband, Radona, Jr., in 1973, while they lived together.[15]

As a general rule, factual findings of the trial courts, especially when affirmed by the Court of Appeals, are final and are not reviewed by this Court.[16] However, the rule admits of several exceptions, one of which is when the appellate court overlooked or misapprehended certain facts which when properly considered would lead to a different result.[17]

Here, we find that at present the title of the property in question belongs to Alfredo Apuyan. That title has been issued by the appropriate government agency, the Bureau of Lands. He does not deny that petitioner is the caretaker of the area in question. To the contrary, he has a sworn statement that she is his caretaker over said land. We agree that here the question is not of ownership but of possession.[18] In an unlawful detainer suit, the issue is one of possession. But here private respondents would want to eject petitioner, who has actual possession of said area, out of her house. While our task is to resolve the question of possession, meaning to say who has the better right thereto, we cannot however close our eyes to the personal and family relationships in this case which could throw light on the fairness of the possible result of our decision, considering that we are concerned with law and equity. The Radonas have their own house. Jose, Jr. has a new house and paramour. Why should petitioner's former parents-in-law, even only in a common-law-relationship, now drive her out of her own house? Is it only because their son has left petitioner in order to live with another woman? Or is it because she found refuge and sided with the titled owner, Alfredo Apuyan? In this case the principle of social justice - that she who has less in

life should have more in law - ought to find a measure of relevance more weighty than technicalities.

The records show that petitioner occupied the subject portion of the land sometime April 3, 1973 when she started to live with her common-law husband, Jose Radona, Jr., one of the sons of the private respondents. This is borne by the Sinumpaang Salaysay of Alfredo Apuyan, who has Free Patent title to the land.[19] When she and her common-law husband separated, she said she continued possession of the 650 sq. m. portion with prior consent of one who had title to the land, Apuyan himself. It will be recalled that when private respondents filed a protest against Free Patent No. 037108-93-3230 issued to Alfredo Apuyan, the Department of Environment and Natural Resources declared that it was "crystal clear that the lot in dispute had already been patented and the corresponding title was already issued in favor of Apuyan. Hence, in the eyes of the law, the same became private land from the time the subject patent was issued."[20] It also bears stressing that even if a cancellation case were pending before the RTC on the land now in dispute, it is solely the Office of the Solicitor General who has authority to institute reversion proceedings or cancellation of title with respect to free patents. Thus, until and unless the RTC decides to cancel Free Patent 037108-93-3230 under OCT No. P-11962,[21] the titled owner, Alfredo Apuyan, has legal basis to assign petitioner as the caretaker of his land and for her to live in the area with the house she with her former live-in husband had built and therefore own. Petitioner has shown Alfredo Apuyan's affidavit designating her as caretaker of the property.[22] It is quite obvious that unless private respondents overcome the absolute right of Apuyan as titled landowner, they are now without lawful basis to eject petitioner as, in fact, private respondents are legally still strangers to the land in question.

In brief, as far as possession of the disputed lot is concerned, petitioner's right to possess the portion consisting of 650 square meters with her home therein is clearly superior to private respondents, who live elsewhere separately. She justifiably has reason to claim that her possession can be validly tacked to the possession of the land by Apolinario Apuyan,[23] the father and predecessor-in-interest of the present titled owner, Alfredo Apuyan. We find no compelling reason in law and equity now to sustain the lower court's ruling that will deprive her of hearth and home.

WHEREFORE, the petition is GRANTED. The assailed decision dated November 15, 1995, and the resolution dated January 8, 1996, of the Court of Appeals are REVERSED and SET ASIDE. Private respondents are ordered to desist from ejecting petitioner Nepomucena Brutas from the house and lot she presently occupies.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 30-36.

[2] Id. at 38.

[3] CA Rollo, pp. 19-21.

[4] Id. at 23.

[5] Id. at 22.

[6] Id. at 42.

[7] Id. at 34.

[8] Rollo, pp. 34-35. (Stress supplied.)

[9] Id. at 19.

[10] Id. at 39.

[11] Id. at 40-41.

[12] Id. at 42.

[13] Id. at 49-50.

[14] Id. at 99.

[15] Id. at 100.

[16] Baylon vs. Court of Appeals, G.R. No. 109941, 312 SCRA 502, 507 (1999).

[17] Baricuatro, Jr. vs. Court of Appeals, G.R. No. 105902, 325 SCRA 137, 145-146 (2000).

[18] See Del Mundo vs. Court of Appeals, G.R. No. 108522, 252 SCRA 432, 442 (1996).

[19] Rollo, 42.

[20] CA Rollo, p.16.

[21] Id. at 13.

[22] Id. at 14.

[23] Rollo, pp. 91-92.

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