

**GRACE T. MAGDALUYO AND ANGELES CANDELARIO, PETITIONERS,
VS. GLORIA M. QUIMPO, EDITHA M. PEREZ, ROBERTO T. MIJARES,
VENECIA Q. MIJARES, BUTCH MIJARES, NANETTE MIJARES,
JOFELDA M....**

G.R. No. 138772. April 10, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the decision[1] dated January 27, 1999 of the Court of Appeals, in CA-G.R. CV No. 50559 which affirmed in toto the judgment[2] dated May 31, 1995 of the Regional Trial Court, 6[th] Judicial Region, Branch VI, Kalibo, Aklan, in Civil Case No. 4611, for recovery of possession and ownership and declaration of nullity of document of assignment, with damages.

The trial court's judgment reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered declaring the plaintiffs the lawful owners and possessors of the land in question as described in Exhibit "A"; declaring Exhibit 18 as null and void and ordering defendant Grace T. Magdaluyo to vacate the same and restore plaintiffs to its possession. Defendants are also ordered, jointly and severally, to pay plaintiffs the sum of P3,000.00 as litigation expenses as well as the costs.

SO ORDERED.[3]

The core of the controversy between the parties relates to the possession and ownership of a parcel of land more particularly described as follows:

Residential land with an area of 462 square meters, more or less, bounded on the North, by Municipal Road; on the East, by plaintiffs' land; on the South, by land of Anselmo Legaspi; and on the West, by land of plaintiffs.[4]

In a complaint filed on April 15, 1993 with the Regional Trial Court of Kalibo, Aklan, Branch VI, respondents alleged that they were the lawful owners and possessors of a parcel of land located at Laserna Street, Poblacion, Kalibo, Aklan, particularly described as follows:

Residential land with an area of 6,030 square meters, more or less, bounded on the North by the Municipal road leading to Sook (Aklan) River; on the East, by plaintiffs' land; on the South, by Anselmo Legaspi; and on the West, by the Sook River; declared in the name of Encarnacion Mijares, deceased, under Tax Declaration or ARP No. 89 01406 that cancelled prior Tax Declaration No. 1767, and assessed at P110,620.00.[5]

Respondents claimed that while their possession as well as their predecessors-in-interest had been peaceful, public, adverse, exclusive and in good faith with just title, in the concept of owner, for more than forty (40) years, petitioners unlawfully entered the contested portion by constructing a structure without prior consent and knowledge of respondents who were eventually dispossessed of the land. Despite demands to vacate the land and

remove the illegal structure, petitioners refused to comply, said the respondents. They added that petitioner Magdaluyo claimed she acquired the land in 1986 from co-petitioner Candelario. Said acquisition was allegedly evidenced by an Assignment of Right and registered in the notarial register of Notary Public Liberato R. Ibadlit. But according to respondents, this Assignment was null and void as Candelario was neither the owner of the contested area nor had she any right or interest therein. They further averred that Magdaluyo was an assignee in bad faith as she fully knew the flaw or defect in the title of her assignor.

For her part, petitioner Magdaluyo alleged that on June 26, 1986, she acquired the rights over the land from co-petitioner Candelario who had been in peaceful, public, open and continuous possession of the land in question for more than thirty (30) years and was the actual possessor thereof. Magdaluyo added that she had a miscellaneous sales application covering the land which was given due course by the Bureau of Lands. She also said she declared the land for taxation purposes and had paid its realty taxes. She denied the claims of respondents as plaintiffs below. Co-petitioner Candelario likewise denied the allegations in respondents' complaint. She stressed that she had assigned her rights over the land to Magdaluyo.

In a reply dated July 19, 1993, respondents stated that the land in question is an accretion to Lot 173 covered by Transfer Certificate of Title No. T-2443-34 in their names. They admitted that co-petitioner Candelario's house stood on the land in question.

At the pre-trial, the parties agreed to the appointment of a court commissioner to delimit the land in relation to cadastral Lot 173. Among others, the parties admitted that petitioner Magdaluyo had an existing tax declaration on the land, effective 1990, and that respondents' predecessor-in-interest, Francisco Mijares, also had Tax Declaration No. 1845, effective 1948, covering the accretion of which respondents are claiming ownership, and that co-petitioner Candelario had resided on a portion of the land for some time.

Pertinent portions of the Amended Commissioner's Report submitted on May 31, 1994 by court-appointed commissioner Nelson R. Dela Cruz, Sheriff IV, and approved by the trial court, are as follows:

That the Lot in Question is being claimed by the plaintiffs, but also claimed and actually possessed by the defendant Grace T. Magdaluyo.

That the improvements inside the Lot in Question are the houses of Grace T. Magdaluyo and Rizaldo Flores.

That the above-described Lot in Question is part or within the metes and bounds of the land in question in Civil Case No. 2132 entitled: "Rosario Adante versus Roberto Mijares, et al."

That the total area of accretion claimed by the plaintiffs is 4,248 square meters including the Lot in Question in this case, that is from line 2 to 3 of Lot 173 up to the boundary line of Lot 1777 of Rosario Adante near the Aklan River.

That the Lot in Question is 12.80 meters away from the titled property of the plaintiffs which is Lot 173, covered by TCT No. T-2443-34. This Lot 173 is reflected in the 2nd Amended Sketch.[6]

After trial on the merits, the lower court rendered a decision in favor of the respondents, as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered declaring the plaintiffs the lawful owners and possessors of the land in question as described in Exhibit "A"; declaring Exhibit 18 as null and void and ordering defendant Grace T. Magdaluyo to vacate the same and restore plaintiffs to its possession. Defendants are also ordered, jointly and severally, to pay plaintiffs the sum of P3,000.00 as litigation expenses as well as costs.

SO ORDERED.[7]

Petitioners appealed before the Court of Appeals, and on January 27, 1999, the appellate court affirmed in toto[8] the decision of the trial court and also denied petitioners' motion for reconsideration. Hence, the instant petition with the following assigned errors:

I

THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING FROM THE DOCUMENTARY EVIDENCE ON RECORD THAT THE DISPUTED LAND IS AN OLD DRIED RIVER BED OF THE SOOC RIVER WHICH IS OF PUBLIC DOMINION AND AS SUCH, ITS DISPOSITION IS WITHIN THE CONTROL AND AUTHORITY OF THE BUREAU OF LANDS.

II

THE RESPONDENT COURT OF APPEALS ERRED IN NOT ORDERING THE DISMISSAL OF THE COMPLAINT WITH THE TRIAL COURT ON GROUND OF NON-EXHAUSTION OF ADMINISTRATIVE REMEDIES AND NON INCLUSION OF THE BUREAU OF LANDS AS AN INDISPENSABLE PARTY.

III

THE RESPONDENT COURT OF APPEALS ERRED IN FAILING TO UPHOLD THE BUREAU OF LAND'S CERTIFICATION THAT THE DISPUTED LAND IS AGRICULTURAL DISPOSABLE LAND AND THEREFORE THE REAL ISSUE TO BE RESOLVED IS NOT ONE OF OWNERSHIP BUT ONLY THE FACT OF POSSESSION.

IV

THE RESPONDENT COURT OF APPEALS ERRED IN FAILING TO GIVE WEIGHT AND CONSIDERATION TO THE PHYSICAL CONTINUOUS POSSESSION OF PETITIONERS FOR MORE THAN THIRTY (30) YEARS IN ADDITION TO THE FACT THAT THE BUREAU OF LANDS HAS APPROVED THE MISCELLANEOUS SALES APPLICATION OF THE PETITIONERS.

Respondents in their comment before us contend that the present petition failed to raise any question of law in violation of Rule 45, Section 1 of the 1997 Rules of Civil Procedure. Respondents further point out that the land in dispute is part of a bigger parcel which had already been settled with finality by this Court in the case of Roberto Mijares, et al. vs. Court of Appeals, et al., G.R. No. 114395, July 20, 1994, in their favor.[9]

Considering the petition and the comment thereon, we now resolve to deny the petition for lack of merit.

As declared in the Amended Commissioner's Report[10] dated May 31, 1994:

...the above-described Lot in Question is part or within the metes and bounds of the land in question in Civil Case No. 2132, entitled: Rosario Adante versus Roberto Mijares, et al.

Civil Case No. 2132 involved Rosario Adante, et al. as plaintiffs and Roberto Mijares, et al. as defendants. On July 8, 1988, Judge Fructuoso C. Velicaria, Jr. of Kalibo, Aklan rendered judgment thus:

(1) Declaring the plaintiffs (Adantes) as owners of the remaining 1,778 accreted land, which is a portion of Lot B and the whole of Lot A of the commissioner's sketch marked Exhibit "A" for the plaintiffs and Exhibit "1" for the defendants (Mijareses) and ordering defendants to immediately surrender the possession of the said 1,778 (sic) accreted land to the plaintiffs;

(2) Declaring defendants as owners of the 2,240 square meters of accreted land in Lot B of the commissioner's sketch as Exhibit "A" for the plaintiffs and Exhibit "1" for the defendants;

(3) Ordering defendants to pay attorney's fees of P2,500.00, litigation expenses of P1,000.00 to the plaintiffs; and

(4) Ordering the defendants to pay costs.[11]

This decision was affirmed in toto by the Court of Appeals in a decision promulgated on December 28, 1993, thus:

WHEREFORE, the decision dated July 8, 1988 rendered by the Regional Trial Court, Sixth Judicial Region, Branch 6 of Kalibo, Aklan, is AFFIRMED in toto.

SO ORDERED.[12]

On July 20, 1994, this Court issued a Resolution that:

...Considering the allegations, issues and arguments adduced in the petition for review on certiorari, as well as private respondent's comment thereon, the Court Resolved to DENY the petition for failure of the petitioners to sufficiently show that the respondent court had committed any reversible error in rendering the questioned judgment.

The motion of private respondent to dismiss the petition, is further NOTED.[13]

A Motion for Reconsideration of the said resolution was also denied by this Court on September 21, 1994, thus:

Acting on the motion of petitioners for reconsideration of the resolution of July 20, 1994, which denied the petition for review on certiorari and considering that the basic issues have already been passed upon and there is no substantial argument to warrant a modification of this Court's resolution, the Court Resolved to DENY reconsideration with FINALITY.[14]

As correctly pointed out by respondents, the land subject of this petition is part of a bigger parcel that has already been awarded to them in a previous case decided with finality by this Court. Said decision now binds the whole world.

WHEREFORE, the instant petition is DENIED for lack of merit.

SO ORDERED.

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

[1] Rollo, pp. 181-189.

[2] Id. at 164-179, in "Gloria M. Quimpo, et al., plaintiffs, versus Grace T. Magdaluyo and Angeles Candelario, defendants."

[3] Id. at 179.

[4] Id. at 182.

[5] Id. at 165.

[6] Id. at 167.

[7] Id. at 179.

[8] Id. at 188.

[9] Id. at 225-227.

[10] Id. at 87.

[11] Id. at 306-307.

[12] Id. at 320.

[13] Id. at 321.

[14] Id. at 322.

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