

**PUNO, CHAIRMAN, AUSTRIA-MARTINEZ, VS. CALLEJO, SR., TINGA,
AND CHICO-NAZARIO, JJ. HEIRS OF MANUEL ABELLA,
REPRESENTED BY MERCEDES N. PROMULGATED: ABELLA,
RESPONDENTS.**

G.R. No. 143510. November 23, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the petition for review on certiorari seeking to set aside the Decision[1] of the Court of Appeals (CA) dated February 4, 2000 denying the petition for review on certiorari in CA-G.R. SP No. 47747 and the Resolution dated May 29, 2000 denying petitioner's motion for reconsideration of the aforementioned decision.

The property in dispute is a parcel of land with an area of one hectare located beside the Peñafrancia Basilica in Naga City. It is covered by Tax Declaration No. 004.1152 in the name of herein respondents, the heirs of Don Manuel I. Abella (respondents). According to herein petitioner Roman Catholic Archbishop of Caceres (petitioner) said parcel of land had been donated to him by respondents sometime in 1981, in exchange for masses to be offered once a month in perpetuity for the eternal repose of the soul of Don Manuel I. Abella. Respondents, on the other hand, vehemently deny such allegation and counter that petitioner encroached and fenced off the subject parcel of land without their consent. The proceedings that transpired in this case had been accurately narrated in the Decision of the Regional Trial Court (RTC) of Naga City, Branch 23, in Civil Case No. 94-3345 in this wise:

In the action for forcible entry instituted by the Heirs of Manuel Abella (ABELLA, for short) against the Roman Catholic Archbishop of Nueva Caceres (ARCHBISHOP, for short) before the Municipal Trial Court of Naga City, Branch I, docketed as Civil Case No. 8479, a judgment was rendered in favor of the ARCHBISHOP, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- The complaint is ordered dismissed for lack of merit and the petition for preliminary mandatory injunction is hereby denied for being already moot and academic.
- The plaintiffs are hereby condemned jointly and severally to respect the ownership and possession of the one-hectare lot they had donated, transferred, and conveyed to the Roman Catholic Archbishop of Caceres by way of onerous donation, and to desist from further interfering with the possession and enjoyment of the same by the defendant Roman Catholic Archbishop of Caceres and its representatives, and
- To pay the defendants, jointly and severally, the amount of P5,000.00 as actual damages, and the further sum of P3,000.00 as and for attorney's fees and to pay the costs of suit.

SO ORDERED.

On appeal, the respondent court's Decision was affirmed in toto by this Court (RTC 88-1615, Branch 22) in its

Decision dated August 19, 1988. The Decision was appealed by ABELLA to the Court of Appeals docketed as CA-G.R. SP No. 17471. The Court of Appeals in its decision (ANNEX B, Petition) dated July 3, 1990 affirmed the decision of this Court (Branch 22) by denying Abella's petition for review.

While CA-G.R. SP No. 17471 was pending before the Court of Appeals, ABELLA filed another case before this Court (Branch 24) against the ARCHBISHOP, docketed as Civil Case No. 89-1802 for "Quieting of Title" involving the same property subject matter of MTC Civil Case No. 8479 (Forcible Entry).

This Court (Branch 24) rendered judgment in Civil Case No. 89-1802 in favor of ABELLA, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered:

- Declaring the herein plaintiffs as the rightful owners, as co-owners pro-indiviso, of the one (1) hectare lot in question and that the herein defendant has no rightful claim of ownership over the same. And, accordingly, the defendant is adjudged to recognize and respect the plaintiffs' absolute ownership thereof.
- Declaring the defendant as the absolute owner of the total area of 1,000 square meters comprising of that 541 square meters previously donated by Manuel Abella in August, 1979 (Exhibit 2) and the additional 459 square meters donated verbally by Mrs. Abella sometime in 1982 which finds acceptance and recognized by the other owners thereof, Marianito Abella and Ma. Teresa Abella Ballesteros, co-plaintiffs in the instant case.
- Plaintiffs' other claims are hereby denied for lack of merit and/or insufficiency of evidence to sustain them.
- Defendant's counterclaim is hereby denied for lack of merit.

No pronouncement as to costs.

The Decision in Civil Case No. 89-1802 was appealed by the ARCHBISHOP to the Court of Appeals, docketed as CA-G.R. SP No. 27370. The Court of Appeals rendered a Decision dated November 28, 1991 affirming this Court's Decision (ANNEX D, Petition).

The ARCHBISHOP appealed the Decision of the Court of Appeals in CA-G.R. SP No. 27370 to the Supreme Court which was docketed as G.R. No. 103123. The appeal was dismissed in a minute resolution dated June 1, 1992 (ANNEX E, Petition) holding that there was "no reversible error committed by the appellate court."

Both Decisions in the Forcible Entry case and in the Quieting of Title case are now final and executory.

The ARCHBISHOP moved to execute the Decision in the Forcible Entry case, but the respondent court [Municipal Trial Court of Naga City, Branch 1 (MTC)] in its Order dated May 10, 1993 (ANNEX A, Petition) denied the motion for execution. ...[2]

Upon denial by the Municipal Trial Court of petitioner's motion for execution, he filed a petition for certiorari and mandamus with this Court but pursuant to a Resolution dated February 13, 1995, the case was referred to the Executive Judge of the RTC of Naga City for raffle and was eventually raffled to Branch 23 thereof. The RTC then promulgated the aforequoted Decision dated February 4, 1998, the dispositive portion of which reads thus:

WHEREFORE, judgment is hereby rendered, sustaining the validity of the respondent court's Order dated May 10, 1993. Consequently, the petition is hereby DENIED. No pronouncement as to costs.

SO ORDERED.[3]

Herein petitioner again elevated the case straight to this Court via a petition for review on certiorari. Per Resolution dated May 13, 1998, the Court referred the petition to the CA, and on February 4, 2000, the latter

promulgated its Decision[4] denying the petition. The CA held that:

... Admittedly, the decision in Civil Case No. 8479 for Forcible Entry has become final and executory earlier than in Civil Case No. 89-1802 for Quieting of Title. The finality of the decision in the quieting of title, declaring the respondents as the true owner of the subject property is a supervening event that renders the judgment in the forcible entry, awarding possession to petitioner, notwithstanding its finality, unenforceable by execution. A suspension or refusal of execution of judgment or order on equitable grounds can only be justified upon facts and events transpiring after the judgment or order had become executory, materially affecting judgment obligation...[5]

Petitioner moved for reconsideration of the Decision but on May 29, 2000, a Resolution was issued denying the same.

Hence, the herein petition where the only issue for resolution is whether or not the final and executory judgment in the case for quieting of title wherein respondents were adjudged to be the owners of the subject property is a supervening event that justifies the suspension or non-enforcement of the final judgment in the previous case for forcible entry.

Petitioner insists that the judgment in the quieting of title case should not be considered as a supervening event that bars the enforcement of the decision in the forcible entry case because even if respondents had indeed been finally adjudged to be the absolute owners of the disputed land, an owner of a property is not necessarily entitled to possession thereof, such as when the owner leased out the property to another. Petitioner advances the theory that what respondents had actually given him is perpetual usufruct over the subject property.

The Court finds the petition unmeritorious.

The theory advanced by petitioner from the very beginning is that he is entitled to possession of the disputed property as the owner thereof because the property was transferred to him by virtue of an onerous donation made by respondents. Thus, petitioner's alleged right of possession is premised on his claim of ownership. He cannot change his theory when the case is on review, by presenting another theory that is inconsistent with his allegations during the proceedings below. Petitioner cannot contradict himself by saying first that respondents had agreed to transfer to him the ownership over the property, only to say later that what respondents granted to him was the right to possess the property. Petitioner is bound by the statements he made while the case was being heard in the lower courts. As held in *Philippine Airlines, Inc. vs. NLRC*,[6] to wit:

... The rule is well-settled that points of law, theories, issues and arguments not adequately brought to the attention of the trial court need not be, and ordinarily will not be considered by a reviewing court as they cannot be raised for the first time on appeal because this would be offensive to the basic rules of fair play, justice and due process. ...[7]

Furthermore, it should be emphasized that in a case for ejectment, any finding of the court regarding the issue of ownership is merely provisional and not conclusive. This was stressed in *Umpoc vs. Mercado*,[8] where the Court stated:

... we emphasize that our disquisition on the issue of ownership in ejectment cases, as in the case at bar, is only provisional to determine who between the parties has the better right of possession. It is, therefore, not conclusive as to the issue of ownership, which is the subject matter of a separate case of annulment of title filed by respondent. x x x As the law now stands, in an ejectment suit, the question of ownership may be provisionally ruled upon for the sole purpose of determining who is entitled to possession de facto. [9]

Thus, the finding in the forcible entry case that petitioner had become the owner and rightful possessor of the disputed property because respondents had donated the property to petitioner is only provisional. It is the ruling in

the case for quieting of title, adjudging herein respondents to be the absolute owners of the subject property, which is conclusive. The finding in the case for quieting of title that respondents never consented to petitioner's occupation of the subject property has now become final and immutable. The CA, adopting the analysis of the trial court, held thus:

- The cause of the defendant [herein petitioner] is not served any better by the fact that Monsgr. Balce had caused the fencing of the alleged one (1) hectare donated by the plaintiffs [herein respondents] to the church, because as the record shows Mrs. Abellas was not aware of said fencing which was done while she was abroad. And, when she returned from abroad and that fact was reported to her by her encargado, Erwin Lara, she went to the premises. However, she no longer did anything about it because the fence was already destroyed and/or turned down. And, when Monsgr. Balce tried to reconstruct said fence in 1988 she went to the place with a policeman and stopped the laborers from continuing with their work in fencing the property. However, on the following morning, Monsgr. Balce ordered the same laborers to continue their work. That prompted the plaintiffs to file a case against Monsgr. Balce before the MTC in Naga City. x x x All these circumstances undertaken by the plaintiffs negate the idea that they have already parted with the property in favor of the defendant by way of donation. [10]

Necessarily, the finding in the case for quieting of title that respondents never agreed to donate the property or to allow petitioner to occupy the subject land prevails over the ruling in the forcible entry case.

The foregoing findings totally foreclose petitioner's belated claim that even if title over the property remained with respondents, he is nevertheless entitled to possession thereof. Since respondents never made the alleged donation, there is absolutely no legal and factual basis for petitioner to claim the right of possession over it.

Hence, there can be no other conclusion but that the finality of the decision in the quieting of title case constitutes a supervening event that justifies the non-enforcement of the judgment in the forcible entry case. In *Natalia Realty, Inc. vs. Court of Appeals*, [11] the Court explained thus:

... The jurisdiction of the court to amend, modify or alter its judgment terminates when the judgment becomes final. This is the principle of immutability of final judgment that is subject to only few exceptions, none of which is present in this case. On the other hand, the jurisdiction of the court to execute its judgment continues even after the judgment has become final for the purpose of enforcement of judgment.

...

One of the exceptions to the principle of immutability of final judgments is the existence of supervening events. Supervening events refer to facts which transpire after judgment has become final and executory or to new circumstances which developed after the judgment has acquired finality, including matters which the parties were not aware of prior to or during the trial as they were not yet in existence at that time. [12]

In the case at bar, the new circumstance which developed after the finality of the judgment in the forcible entry is the fact that the decision in the case for quieting of title had also attained finality and conclusively resolved the issue of ownership over the subject land, and the concomitant right of possession thereof. Verily, to grant execution of the judgment in the forcible entry case would work injustice on respondents who had been conclusively declared the owners and rightful possessors of the disputed land.

IN VIEW OF THE FOREGOING, the petition is DENIED. The Decision of the Court of Appeals dated February 4, 2000 and its Resolution dated May 29, 2000 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., and Tinga, JJ., concur.

Chico-Nazario, J., on leave.

[1] Penned by Associate Justice Mariano M. Umali, with Associate Justices Corona Ibay-Somera and Bernardo Ll. Salas concurring.

[2] Rollo, pp. 117-119.

[3] Id., p. 124.

[4] Id., pp. 43-57.

[5] Id., p. 55.

[6] G.R. Nos. 114280 & 115224, July 26, 1996, 328 Phil. 814.

[7] Id., p. 823.

[8] G.R. No. 158166, January 21, 2005, 449 SCRA 220.

[9] Id., pp. 238-239.

[10] CA Decision in CA-G.R. No. 27370 [case for quieting of title], Rollo, pp. 109-110.

[11] G.R. No. 126462, November 12, 2002, 391 SCRA 370.

[12] Id., pp. 386-387.

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