

**ESTATE OF LIM CHING, REPRESENTED BY ATTORNEY JOSE LIM,
PETITIONER, VS. FLORENCIA BACALA, DOLORES L. MENDOZA,
JUANITA ALVAREZ AND APOLINARIO LAURENA, RESPONDENTS.**

G.R. NO. 149603. March 14, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the January 31, 2001 Decision[1] and August 17, 2001 Resolution of the Court of Appeals in CA-G.R. CV No. 62495, entitled "Estate of Lim Ching, represented by Attorney Jose Lim, versus Florencia L. Bacala, Dolores L. Mendoza, Juanita L. Alvarez and Apolinario C. Laurena."

The facts are:

On December 10, 1934, Ireneo Laurena executed a pacto de retro sale in favor of Lim Ching of two parcels of land located at Barangay Cabagawan, Saint Bernard, Southern Leyte. However, on February 23, 1935, Ireneo executed a deed of renunciation covering the same parcels of land wherein he waived his right to repurchase the same, thus vesting ownership and possession of the land to Lim Ching.

Sometime in 1936, Ireneo filed with the then Court of First Instance (CFI), now Regional Trial Court (RTC), Maasin, Leyte a complaint for recovery of the two parcels of land against Lim Ching, docketed as Civil Case No. 1919.

On October 19, 1937, the CFI rendered a Decision[2] ordering Lim Ching to return the two parcels of land to Ireneo.

On appeal by Lim Ching, docketed as T-A G.R. No. 2647, the Tribunal de Apelacion (now Court of Appeals) rendered a Decision[3] dated August 19, 1939 reversing the trial court's judgment and declaring Lim Ching the owner of the property. The Decision[4] became final and executory since Ireneo did not take further action.

Lim Ching then continued exercising his right of ownership. Upon his death, his heirs, including Atty. Jose Lim, representing the estate of Lim Ching, herein petitioner, inherited the land.

After 57 years, or in February 1996, Ireneo's heirs, herein respondents Florencia Bacala, Dolores L. Mendoza, Juanita Alvarez, and Apolinario Laurena, took possession of the property without the consent of Lim Ching's heirs. Respondents claimed they inherited it from Ireneo.

Several times, petitioner demanded that respondents vacate the land but they refused. Hence, on March 21, 1996, petitioner filed with the RTC, Branch 26, San Juan, Southern Leyte a complaint for quieting of title with prayer for a writ of preliminary injunction against respondents, docketed as Civil Case No. R-448.[5] Petitioner alleged that it is the absolute owner of the land in question as held by the Tribunal de Apelacion (now Court of Appeals) in its Decision dated August 19, 1939 in TA-G.R. No. 2647.

In their answer to the complaint,[6] respondents countered that petitioner has no cause of action as the land it is claiming is different from the lot they have been occupying.

On October 24, 1996, upon agreement of both parties, the RTC issued an Order creating a committee to undertake an ocular inspection of the property. The committee was composed of Calvin Tabada, Head of the City Environment and Natural Resources Office (CENRO), San Juan, Southern Leyte; Nicandro Nombrado, then acting court sheriff; and Grace Botoy, the municipal assessor, also of Saint Bernard, Southern Leyte.

On December 13, 1996, the committee submitted to the RTC its Commissioner's Report[7] stating that the land being claimed by petitioner is also the same property being claimed by respondents.

On February 20, 1997, the RTC issued an Order[8] approving the Commissioner's Report.

On October 16, 1997, petitioner filed with the RTC a motion for summary judgment[9] based on the Commissioner's Report[10] and the August 19, 1939 Decision of the Tribunal de Apelacion (now Court of Appeals) in T-A G.R. No. 2647 declaring Lim Ching the owner of the property. As mentioned earlier, Lim Ching is the predecessor of Atty. Jose Lim representing herein petitioner.

On February 20, 1998, respondents filed their comments and opposition[11] to petitioner's motion for summary judgment.

On March 18, 1998, the RTC issued an Order[12] granting the motion for summary judgment and submitting the case for resolution. Respondents filed their motion for reconsideration[13] but it was denied.[14]

On December 15, 1998, the RTC rendered its Decision[15] in favor of the petitioner, holding that its claim deserves more credence, thus:

x x x

As borne out by the evidence adduced by both parties during the trial, it was admitted that there was a prior case that involved the predecessors in interests of both parties and that the land or subject property is located at Barangay Cabagawan, St. Bernard, Southern Leyte. Plaintiff averred and anchored their claim of ownership over the subject property on a decision rendered by the Court of Appeals dated August 19, 1939. Plaintiff's claim of ownership and possession of the property in dispute was all evidenced by Exhibits "A", "B", "C", "D", "F" and "H". Defendants, on the other hand, vehemently denied plaintiff's claim of ownership and possession of the property in dispute and stressed that what they are claiming is separate and distinct land from those that are subject of the aforesaid Court of Appeals decision. Defendants were able to present tax declarations and tax receipts evidencing payment of realty taxes over the subject property they are claiming ownership.

After examining and evaluating the conflicting claim of the plaintiff and defendants, the plaintiff's claim deserves more credence.

The RTC further held that respondents failed to substantiate their defense that the area they are claiming is different from the land in controversy.

The dispositive portion of the Decision[16] reads:

WHEREFORE, IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered in favor of the plaintiff and against the defendants. The plaintiff is declared as the legal owner and possessor of the land in litigation and the defendant is hereby ordered to:

- To respect said ownership and possession by the plaintiff;
- To vacate from the land in question immediately and demolish all structures built on the premises of the

subject property;

- To jointly and severally pay the plaintiff the sums of P50,000.00 as moral damages, P20,000.00 as attorney's fees, P1,691.50 as exemplary damages to deter others from committing the same act.

SO ORDERED.

Respondents interposed an appeal to the Court of Appeals, docketed as CA-G.R. CV No. 62495.

On January 31, 2001, the Court of Appeals rendered the assailed Decision reversing the RTC Decision. It found that there are questions of fact in issue, such as respondents' contentions that they have been in possession of the land in dispute since time immemorial and that petitioner's action has been barred by prescription. Thus, the appellate court ordered the remand of the case to the trial court for further proceedings.

The issue raised in this petition is whether a summary judgment may be rendered by the trial court.

Summary judgment is sanctioned in this jurisdiction by Section 1, Rule 35 of the 1997 Rules of Civil Procedure, as amended, reproduced hereunder:

SECTION 1. Summary judgment for claimant. - A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time, after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.

The theory of summary judgment is that, although an answer may on its face appear to tender issues requiring trial, if it is demonstrated by affidavits, depositions or admissions that those issues are not genuine but sham or fictitious, the court is justified in dispensing with the trial and rendering summary judgment.[17] It was devised to aid parties in avoiding the expense and loss of time involved in a trial.[18]

In this case, the parties agreed that a committee be formed to conduct an ocular inspection to determine whether they are claiming the same property. The trial court approved the finding of the committee, stated in the Commissioner's Report, that respondents are claiming a property which is also being claimed by petitioner. Considering that the parties agreed to the formation of a committee, they are bound by its finding. It is settled that when a referee (the commissioners in this case) is appointed, he becomes for the time being an accredited agent and an officer of the court, and the reference is clearly a judicial proceeding. What the referee does while acting within the scope of his official duty is, therefore, in the contemplation of law, done by the court itself. Hence, his conclusions must be assumed to be correct until error is properly shown,[19] which is not so in the present case.

It must be recalled that respondents' main defense is that they are occupying a property different from that being claimed by petitioner. Consequently, based on the Commissioner's Report, respondents failed to prove that they are the rightful owners of the disputed land considering that what they own is a different area.

At any rate, petitioner has shown that as early as August 19, 1939, the Tribunal de Apelacion (now Court of Appeals) rendered a Decision declaring Lim Ching, the predecessor of Atty. Jose Lim, herein representative of petitioner, the owner of the property.

Clearly, a summary judgment was correctly rendered by the trial court since there was no more genuine factual issue to be resolved.

It is settled that a court may grant a summary judgment to settle expeditiously a case if, on motion of either party, there appears from the pleadings, depositions, admissions, and affidavits that no important issues of fact are involved, except the amount of damages. In such event, the moving party is entitled to a judgment as a matter of law.[20]

WHEREFORE, we GRANT the petition. The challenged Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 62495 are REVERSED. The Decision of the RTC in Civil Case No. R-448 is AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justice Fermin A. Martin, Jr. and Associate Justice Mercedes Gozo-Dadole (both retired).

[2] Records, pp. 294-297.

[3] Id., pp. 290-293.

[4] Rollo, pp. 50-56.

[5] Records, pp. 2-8.

[6] Id., pp. 25-35.

[7] Id., pp. 173-174.

[8] Id., pp. 213-215.

[9] Id., pp. 354-359.

[10] Supra.

[11] Id., pp. 388-390.

[12] Id., pp. 400-401.

[13] Id., pp. 402-407.

[14] Id., p. 413.

[15] Id., pp. 416-422.

[16] Annex "E," Rollo, pp. 50-56.

[17] Republic v. Sandiganbayan, G.R. No. 152154, July 15, 2003, 406 SCRA 220.

[18] Cotabato Timberland Company, Inc. v. C. Alcantara and Sons, Inc., G.R. No. 145469, May 28, 2004, 430 SCRA 227.

[19] Justice Jose Y. Feria (Ret.) and Maria Concepcion S. Noche, Civil Procedure, Annotated, Vol. 1, pp. 591-592, citing Kriedt v. E.C. McCullough & Co., 37 Phil. 482 (1918).

[20] Cotabato Timberland Company, Inc. v. C. Alcantara and Sons, Inc., supra, citing Concrete Aggregates Corporation v. Court of Appeals, 266 SCRA 88, 95 (1997).

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