JOSE CALISAY, PETITIONER, VS. EVANGELINA RABANZO-TEODORO, REPRESENTED BY HER ATTORNEY-IN-FACT MELODY TEODORO-YANEZA, RESPONDENT.

G.R. No. 153411. August 17, 2007

Ponente: TINGA, J.

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TINGA, J.:

This Petition for Review under Rule 45 assails the Decision dated 31 October 2001 rendered by the Court of Appeals in CA-G.R. SP No. 54620.[1] The case stemmed from a complaint for unlawful detainer filed with the Municipal Trial Court (MTC) of Sta. Cruz, Laguna.

The antecedents follow.

On 1 April 1998, respondent Evangelina Rabanzo-Teodoro[2] as plaintiff filed a complaint for unlawful detainer[3] against petitioner Jose Calisay as defendant. Respondent alleged that her father, Dominador V. Rabanzo (Rabanzo), purchased the subject property, a parcel of residential land identified as Lot No. 1062, with an area of about 176 square meters, and situated in Barrio Santo Angel Sur, Sta. Cruz, Laguna, from Pamfilo Tobias (Tobias). The purchase was evidenced by a Deed of Absolute Sale executed on 3 April 1952. On 5 May 1979, Rabanzo sold the property to respondent, by way of a notarized Deed of Absolute Sale. In 1985, Rabanzo allowed petitioner to live with him at the house he had earlier erected on the property. Petitioner and his own family thus lived therein as househelp. Rabanzo then died in 1989, but respondent allowed petitioner and his family to remain in the house, treating him as her overseer.[4]

However, when petitioner retired from government service in 1997, he used his retirement pay to open a bakery business at the front part of the house, undertaking renovations for that purpose, without respondent's prior consent.[5] Respondent asked petitioner to pay rentals but the latter refused. In November of 1997, petitioner was summoned to a dialogue with respondent's husband. The meeting resulted in an agreement which petitioners signed wherein he undertook to vacate the premises by the end of the year. When petitioner still did not vacate the property at the end of the year, at the instance of respondent, barangay conciliation proceedings were conducted, but to no avail. In the following year, respondent filed the complaint for unlawful detainer with the MTC of Sta. Cruz, Laguna.

Respondent attached several documents to her complaint, including the 1979 Deed of Absolute Sale that established her dominion over the lot and the real property tax receipts that evidenced her payment of the corresponding real property taxes over the property.[6]

On 4 June 1998, petitioner filed his Answer[7] wherein he raised, as a special and affirmative defense, the existence of a decision dated 12 September 1941 of the Court of First Instance (CFI) of Laguna, Fifth Judicial District, in Cadastral Case No. 44. According to the decision, a copy of which was attached to the Answer, through their common counsel, Tobias and Rosendo Kalisay manifested that they had both inherited Lot No. 1062 from Tomas Tobias. The dispositive portion of the decision reads

> WHEREFORE, the Court hereby adjudicates Lot No. 1062 pro indiviso and in equal shares to Rosendo Kalisay, widower, and Pampilo Tobias, single, both of legal age, Filipinos, and residents of Sta. Cruz, Province of Laguna, Philippines.
>
> After this decision shall have become final, let the decree of registration of title be issued in accordance with law.
>
> IT IS SO ORDERED.[8]

Petitioner however alleged that despite the Decision, issued just a few months before the outbreak of the Pacific phase of World War II, the corresponding title was never issued. The property has since remained unregistered, as certified by the Registry of Deeds of Sta. Cruz, Laguna.

Petitioner further alleged that he was the son of Rosendo Kalisay, who died intestate sometime in 1946. Accordingly, he and his sister, Candelaria Calisay, succeeded to the share of their father to one-half (½) of Lot No. 1062. In view of his ownership, petitioner argued, he could not be ousted from the property. Petitioner admitted that he had signed the 1997 agreement to vacate the premises, but he alleged that he did so only as a result of the undue influence that respondent had exerted on him.

Petitioner claimed that it was only around 1997, or after he had been asked to vacate the premises, that he was forced to verify the status of Lot No. 1062 at the Municipal Hall, at which point he first encountered the 1941 CFI decision. He executed a sworn statement recounting such discovery.[9]

The parties submitted their respective position papers before the MTC, as required under the Rules on Summary Procedure. Among the documents attached by respondent to her position paper was a certification issued by the Municipal Assessor of Sta. Cruz, Laguna, stating that the name of Rosendo Calisay did not appear in the list of registered owners of real properties located in Sta. Cruz.

On 28 December 1998, the MTC rendered its decision[10] in favor of respondent. The MTC found that the above-mentioned certification of the Municipal Assessor defeated petitioner's claim that his father had owned half of the subject property. Stressing that the primary issue in ejectment cases is not the question of ownership of the property, but the material possession thereof, the MTC ruled that the 1997 agreement between the parties was sufficient to establish respondent's possession of the subject property.

Accordingly, the MTC ordered petitioner to vacate the subject property and to pay monthly rentals at the rate of P4,000.00 beginning January of 1998, as well as attorney's fees in the amount of P18,000.00.

Petitioner appealed the MTC decision to the Regional Trial Court (RTC) of Sta. Cruz, which on 25 May 1999, rendered a decision[11] reversing the MTC and dismissing the complaint for unlawful detainer. This time, the RTC gave primacy to the CFI decision in Cadastral Case No. 44, there being no indication that "the said decision has been modified, or superseded, for all intents and purposes, it be[coming] final and executory sometime in 1941."[12] The RTC stated since that the records did not speak of the existence of any other heir of Rosendo Kalisay, petitioner had the perfect right to the title to one-half undivided portion of Lot No. 1062. While acknowledging that respondent would be able to recover possession against petitioner if she can prove prior possession of the property, the RTC found no proof that respondent had acquired possession thereof prior to 1941. In any event, it would be "virtually impossible" for respondent to prove her possession of the entire Lot No. 1062 since her predecessor-in-interest owned only half of the property.[13]

Aggrieved, respondent filed a petition for review on certiorari[14] with the Court of Appeals assailing the RTC decision. The petition was granted in a decision dated 31 October 2001,[15] which reinstated the MTC decision. The appellate court found it undisputed that petitioner's father had been in possession of the property since 1952,

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and that respondent started occupying the same in 1985, out of liberality and tolerance of petitioner's father. On the other hand, the issue of ownership was raised only in November of 1997, or after more than a decade of consistent recognition of respondent's and her father's ownership on petitioner's part.

With respect to the 1941 CFI decision in Cadastral Case No. 44, the Court of Appeals had this to say:

> On the other hand, except for the alleged decision of the then Court of First Instance, no evidence on record would support respondent Calisay's claim of ownership over the subject property. As a matter of fact, a copy of the decision relied upon by private respondent is not even made part of the record. It was error for the appellate court to rule in favor of private respondent on the basis merely of the said decision. Assuming that said decision is legally valid and existing, said decision, however, does not automatically transfer ownership thereof in favor of Pamfilo Tobias and Rosendo Calisay. Acts of ownership must likewise be performed by them such as obtaining title thereto in their names and acquiring possession over the property. However, none of these were obtained under the circumstances in the case of Rosendo Calisay who has not titled the property in his name nor took possession over the same. Neither did Rosendo Calisay declare the same for taxation purposes. If Rosendo Calisay was a co-owner of the subject property, the normal thing for him to do would be to protect his interest by actively participating with Pamfilo Tobias in matters affecting the subject property. The record is bereft of any participation on the part of private respondent's predecessor in exercising acts of ownership which would include possession of the subject property. If, indeed, respondent's predecessor had an interest over the property, why was respondent not informed of such interest? How come the discovery was made only in 1997. It bears stressing that the discovery of the alleged co-ownership of respondent's predecessor over the property happened at the time that respondent was being asked to surrender possession thereof in favor of petitioner. The decision was allegedly made in 1941 and why was its existence revealed only in 1997 when the dispute commenced? These questions cast doubt on private respondent's claim of ownership on the property. Further to this is the certification issued by the Office of the Municipal Assessor of Sta. Cruz attesting that the name of Rosendo Calisay does not appear in the list of registered owners of real properties located in the said municipality.[16]

After petitioner's motion for reconsideration[17] was denied by the Court of Appeals on 23 April 2002,[18] the present petition was filed. Essentially, petitioner insists on the validity and continued efficacy of the 1941 CFI decision in Cadastral Case No. 44. Said decision, he points out, established the co-ownership over Lot No. 1062 between his father, Rosendo Kalisay, and Pampilo Tobias. His father's inability to have the property titled despite the CFI decision did not affect the validity and existence of such decision, but at the same time the co-ownership meant that Tobias could have conveyed only half of the property to respondent's father, petitioner wraps up.

We favor the result reached by the MTC and the Court of Appeals.

There are indisputable guiding principles in ejectment actions. Such actions, namely, actions for forcible entry and unlawful detainer, are designed as the appropriate judicial vehicles for the protection of the right of possession of real property. More than any other judicial remedy, the accion interdictal relies on dispatch to make it adequate. To expedite the hearing and adjudication of ejection suits they have long been made summary proceedings.[19]

Likewise, in an unlawful detainer case or accion desahucio, the defendant was originally in lawful possession, but such possession became illicit by virtue of the expiration or termination of his right to possess. The main issue involved is not title over the property, but the determination as to who is entitled to the physical or material possession of the premises or possession de facto, independent of any claim of ownership set forth by any of the party-litigants.[20]

Despite the abbreviated proceeding it ordains and the limited pleadings it allows, the Rules on Summary Procedure does not relax the rules on evidence. In fact, Section 14 of Rule 70 is emphatic that the affidavits required to be filed "shall state only facts of direct personal knowledge of the affiants which are admissible in

evidence, and shall show their competence to testify to the matters stated therein."

In the case at bar, while the property remains unregistered, there seems to be no serious dispute that respondent is entitled to and actually has possession of Lot No. 1062. She derived possession of the property from her father, who conveyed it to her by sale in 1979. Since then she has been paying the corresponding real property taxes over the property. Her father, in turn, acquired the property from Tobias in 1952, and from then on had physical possession thereof until his death. Notably, all these documents evince respondent's possession, if not ownership, of the entire Lot No. 1062, and not just one-half thereof.

What is disputed is whether petitioner was able to establish a right of possession under the aegis of the 1941 CFI Decision. Any inquiry into that issue will necessarily touch on the question of ownership, which the trial court hearing the unlawful detainer action may rule upon on a provisional basis, i.e., only for the purpose of settling the issue of possession.[21]

Unfortunately for petitioner, however, he failed to prove the existence of the 1941 decision in accordance with the rules of evidence in the first place. His problem had apparently arisen from his unwarranted assumption that the existence of the CFI Decision was an established fact just because he alleged it so in his Answer. In truth, it would be extremely difficult to prove such factual allegation in the course of summary proceedings, especially if the claim is disputed by the opposing party, as respondent has done.

The summary procedure in ejectment cases does not require, but dispenses with the standard trial on the merits which entails examination of the witnesses in open court. The pleadings filed in summary proceedings are limited to the complaints and the answers thereto,[22] as well as the position papers and affidavits submitted by the parties.[23] As noted earlier, expeditiousness is a key characteristic of summary proceedings, thus the correlative limitation in unlawful detainer cases is the recognition that any question concerning ownership will not be definitively settled in such proceedings.

We find that it would be virtually impossible for petitioner to have definitively established his right of possession through the 1941 CFI decision in the course of a summary proceeding in the subject unlawful detainer action. As is evident from petitioner's position paper[24] before the MTC, there was no effort exerted to particularly establish the genuineness and authenticity of the 1941 CFI decision, for the arguments were presented therein as if the veracity of that decision was already a given, apparently unmindful of the fact that what petitioner had attached to his answer was a mere plain copy of the decision. There is no allegation, for example, that the attached copy of the CFI decision was duly certified as authentic by any proper

authority.[25] Note that the record of a public document may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record.[26]

It would have been different if respondent had, at the onset, conceded the existence and continued validity of the 1941 CFI decision, as well as the fact that petitioner was the heir of one of the prevailing parties therein, Rosendo Kalisay. Had that been the instance, the MTC would have been hard pressed to deny petitioner's right to possession by virtue of his ownership over half of Lot No. 1602.

But since petitioner's ownership was disputed, it would have been incumbent on him to establish the authenticity of the 1941 CFI decision, as well as his rights as heir of Rosendo Kalisay. Because of the limited nature of summary proceedings, we hold that this would be almost unrealizable in the proceedings below. In fact, we can assert as a general rule that in actions for unlawful detainer, when the defendant invokes a claim of ownership based on a decision in a land registration case that has yet to be enforced, such claim would be insufficient to establish the right to possession unless the adverse party concedes the existence and validity of the land

registration decision, as well as to the rights of the defendant by virtue of such decision.

All told, we are satisfied that respondent has sufficiently established her claim to possession over Lot No. 1062, as affirmed by the MTC and the Court of Appeals. Still, this conclusion is without prejudice to whatever independent course of action petitioner may take to establish the 1941 CFI decision and assert his alleged rights based thereon.[27]

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio -Morales, and Velasco, Jr., JJ., concur.

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[1] Penned by Associate Justice Mariano C. Del Castillo of the Court of Appeals Tenth Division, concurred in by then Associate Justice (now Supreme Court Associate Justice) Ruben Reyes and Associate Justice Renato C. Dacudao. See rollo, pp. 158-168.

[2] Assisted by her spouse Conrado F. Teodoro, since deceased (see rollo, p. 72), and represented by their duly-designated attorney-in-fact Melody Teodoro-Yaneza, their eldest daughter. See id. at 32.

[3] Id. at 32-37.

[4] Id. at 33.

[5] Id.

[6] See id. at 54-55.

[7] Id. at 39-41.

[8] Id. at 42.

[9] See id. at 22-24.

[10]Id. at 50-56. Decision penned by Judge Elpidio R. Calis.

[11] Id. at 63-70. Decision penned by Judge Pablo B. Francisco.

[12] Id. at 67.

[13] Id. at 68.

[14] Id. at 71-104.

[15] Supra note 1.

[16] Id. at 165-167.

[17]Id. at 170-175.

[18] Id. at 181.

[19] The first Rule on Summary Procedure on ejectment cases took effect on 1 August 1983. Effective 15 November 1991, the Revised Rule on Summary Procedure applied to all ejectment cases irrespective of the amount of damages or unpaid rentals sought to be recovered. Regalado, Remedial Law Compendium, Vol. I, pp. 775-776. See also Rules of court, Rule 70, Sec. 3.

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[20] See Gener v. De Leon, 419 Phil. 120 (2001); Rules of Court, Rule 70, Secs. 16 and 18.

[21] Rules of Court, Rule 70, Sec. 16.

[22] As well as the compulsory counterclaims and cross-claims pleaded in the answer. See Rules of Court, Rule 70, Secs. 4 and 13.

[23] Rules of Court, Rule 70, Sec. 10.

[24] Rollo, pp. 44-47.

[25] The photocopy of the decision which is attached to the present petition does bear a mark that it is a "Certified True/Xerox Copy," as identified by the Office of the Clerk of Court of the RTC of Sta. Cruz. Yet it is apparent the this certification was issued in the context of certifying copies of the case record before the RTC, the copy of the CFI decision having formed part of the case records thereof. It does not appear as proof or certification that attests to the genuineness of such decision having been rendered by the CFI of Laguna on 12 September 1941, and indeed petitioner does not suggest before us that the certification that does appear on the face of the document is oriented towards such conclusive effect.

[26] Matugas v. Commission on Elections, G.R. No. 151944, 20 January 2004, 420 SCRA 365, citing Rule 132, Sec. 24 and Rule 130, Sec. 7 of the Rules of Court.

[27] As explained in Sta. Ana v. Menla, et. al., 111 Phil. 947 (1961), and subsequent decisions thereafter, see, e.g., Republic v. Nillas, G.R. No. 159595, 23 January 2007, the decision of a land registration court, if no corresponding decree of registration was issued by the Director of Lands, would remain enforceable and could still form the basis of the issuance of the decree according to the terms of the decision. The enforcement of such decision would not be barred either by prescription or laches. We explained in Sta. Ana:

> We fail to understand the arguments of the appellant in support of the above assignment [of error], except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment or decision. Authority for this theory is the provision in the Rules of Court to the effect that judgment may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39). This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party, and his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party. In special proceedings[,] the purpose is to establish a status, condition or fact; in land registration proceedings, the ownership by a person of a parcel of land is sought to be established. After the ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary, except when the adverse or losing party had been in possession of the land and the winning party desires to oust him therefrom.
>
> Furthermore, there is no provision in the Land Registration Act similar to Sec. 6, Rule 39, regarding the execution of a judgment in a civil action, except the proceedings to place the winner in possession by virtue of a writ of possession. The decision in a land registration case, unless the adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal.
>
> x x x There is nothing in the law that limits the period within which the court may order or issue a decree. The reason is x x x that the judgment is merely declaratory in character and does not need to be asserted or enforced against the adverse party. Furthermore, the issuance of a decree is a ministerial duty both of the judge and of the Land Registration Commission; failure of the court or of the clerk to issue the decree for the reason that no motion therefor has been filed can not prejudice the owner, or the person in whom the land is ordered to

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be registered. (Id. at 951-952.)

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