

NATIVIDAD FIGURACION, FILMA F. RABOR AND CATHERINE MANALASTAS, PETITIONERS, VS. SPOUSES CRESENCIANO AND AMELITA LIBI, RESPONDENTS.

G.R. NO. 155688. November 28, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

By way of a Petition for Review on Certiorari under Rule 45 of the Rules of Court, Natividad Figuracion, Filma Rabor and Catherine Manalastas (petitioners) assail the March 20, 2002 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 68799, affirming the February 23, 2000 Decision[2] of the Regional Trial Court (Branch 22), Cebu City (RTC) in Civil Case No. CEB-21193; and CA Resolution[3] dated August 20, 2002.

The facts are of record.

Galileo Figuracion was the owner of Lot No. 899-D-2 situated in Cebu City.[4] Sometime in 1948, the Cebu City government (Cebu City) expropriated Lot No. 899-D-2, consisting of 474 sq. m. and turned the same into a portion of N. Escario Street,[5] connecting the Capitol Building to Gorordo Avenue and U.P. Junior College. Cebu City paid P23,700.00 for Lot No. 899-D-2[6] and was issued TCT No. 49454.[7]

In Resolution No. 330,[8] dated March 20, 1989, the Cebu City Sangguniang Panlungsod approved the reconveyance to Isagani Figuracion, successor-in-interest of Galileo Figuracion, of an unused portion of Lot No. 899-D-2, designated as Lot No. 899-D-2-A (subject lot), consisting of 84 sq. m. On the basis thereof, Cebu City Mayor Tomas Osmena (Mayor Osmena) executed in favor of Isagani Figuracion a deed of sale[9] dated April 12, 1989 over the subject lot for the price of P40,000.00. TCT No. 49454 in the name of Cebu City was canceled,[10] and in lieu thereof, TCT No. 113746[11] was issued in the name of Isagani Figuracion, and TCT No. 113747, in the name of Cebu City,[12] over the remaining portion of Lot No. 899-D-2.

Upon resurvey over two years later, it was ascertained that the subject lot actually measures 130 sq. m.[13] Accordingly, the Sangguniang Panlungsod of Cebu City amended Resolution No. 330 by issuing Resolution No. 2345,[14] approving the reconveyance of 130 sq. m. of Lot No. 899-D-2, and Mayor Osmena executed in favor of Isagani Figuracion an amended deed of sale dated January 24, 1992 over said portion for P65,000.00.[15] TCT No. 113746 and TCT No. 113747 were canceled, and in lieu thereof, TCT No. 122369[16] was issued on September 30, 1992 to Isagani Figuracion.

It appearing that herein respondents had been using the subject lot, and refused to vacate it despite demand, petitioners, as successors-in-interest of Isagani Figuracion, filed against respondents a complaint for unlawful detainer, docketed as Civil Case No. R-34287 in the Municipal Trial Court (MTC), Branch 2, Cebu City.

The MTC rendered a decision on June 26, 1995, declaring petitioners entitled to possession of the subject lot and ordering respondents to remove the fence they had constructed.[17]

The MTC decision was affirmed by the RTC (Branch 19), Cebu City in its January 15, 1996 Decision[18] in Civil

Case No. CEB-1778, which, in turn, was upheld by the CA in its April 30, 1996 Decision[19] in CA-G.R. SP No. 39631.

Undaunted, respondents filed against petitioners a complaint for easement, docketed in the RTC as Civil Case No. CEB-21193, praying that they (respondents) be granted a right of way over the subject lot.[20] However, respondents twice amended their complaint[21] to implead Cebu City, and shifted to a different cause of action --that is, from one for the establishment of an easement of right of way over the subject lot to one for the annulment of a) Resolutions No. 330 and No. 2345, b) the January 24, 1992 deed of sale in favor of Isagani Figuracion, and c) TCT No. 122309, and the payment of damages.

In its Answer,[22] Cebu City defended the reconveyance to Isagani Figuracion of the subject lot considering that it was not utilized in the construction of N. Escario Street and had long been vacant.

Petitioners filed their own Answer,[23] pointing out that the complaint in Civil Case No. CEB-21193 is barred by the June 26, 1995 MTC decision in Civil Case No. R-34287, as affirmed by the RTC and CA. They also challenged respondents' legal standing to question the Sangguniang Panlungsod resolutions.

After trial, the RTC in Civil Case No. CEB-21193 rendered the following decision:

WHEREFORE, in view of all foregoing, judgment is hereby rendered declaring resolution Nos. 330 and 2345 of the Sangguniang Panlungsod ng Cebu, Deed of Sale, Amended Deed of Sale, and TCT No. 122309 as null and void.

SO ORDERED.[24]

It does not appear in the records that Cebu City appealed. Respondents also did not appeal from the denial of their claim for damages, attorney's fees and costs.

Only petitioners appealed to the CA which, in its March 20, 2002 Decision, affirmed the RTC decision.[25]

The CA also denied petitioners' motion for reconsideration.

And so, petitioners' recourse to this Court on the following grounds:

- The honorable Court of Appeals erred in not ruling that the present complaint is barred by res judicata or conclusiveness of judgment in Civil Case No. R-34287 and that the respondents are guilty of forum shopping;
- The honorable Court of Appeals erred in declaring resolution nos. 330 and 2345, the deed of sale and the amended deed of sale and TCT No. 122309 as null and void;
- The honorable Court of Appeals erred in not ruling that respondents do not have the legal capacity to sue;
- The honorable court of appeals erred in not ruling that the present action is barred by laches and prescription;
- The honorable Court of Appeals erred in not awarding damages in favor of petitioners as prayed for in their counterclaim.[26]

The Court grants the petition. The Second Amended Complaint in Civil Case No. CEB-21193 should have been dismissed by the trial court.

The third issue on the legal standing of respondents to institute Civil Case No. CEB-21193 is primordial.

On that issue, the RTC held:

Private defendants [petitioners herein] further claim that as private citizens and as ordinary taxpayers, the plaintiffs [respondents herein] have no legal capacity to question the reconveyance of Lot No. 899-D-2 [sic] by

defendants City of Cebu to the private defendants.

This is not so. In the case of *Dacanay v. Asistio, Jr., et al.*, 208 SCRA 404, it was categorically ruled by the Supreme Court that:

WHEREFORE, it having been established that the petitioner and the general public have a legal right to the relief demanded and that the public respondents have the corresponding duty, arising from public office, to clear the city streets and restore them to their specific public purpose (*Enriquez vs. Bidin*, 47 SCRA 183; *City of Manila vs. Garcia et al.*, 19 SCRA 413 citing *Unson vs. Lacson*, 100 Phil. 695), the respondents City Mayor and City Engineer of Caloocan City or their successors in office are hereby ordered to immediately enforce and implement the decision in Civil Case No. C-1292 declaring that Heroes del '96, V. Gozon, and Gonzales Streets are public streets for public use, and they are ordered to remove or demolish, or cause to be removed or demolished, the market stalls occupying said city streets with utmost dispatch within thirty (30) days from notice of this decision. This decision is immediately executory.[27]

The CA agreed:

In accordance with the abovementioned concepts, Spouses Libi cannot be considered not to have the legal capacity to sue for lack of interest, being real parties in interest of the property subject of litigation. Indeed, Spouses Libi stand to be benefited or injured by the judgment in the case at bar considering that the 130-square meter portion appropriated to Isagani Figuracion is necessary for their (Spouses Libi's) ingress [from] and egress to Escario Street.[28]

Both courts are mistaken. They approached the issue from the wrong perspective, in the process losing sight of three important facts:

First, based on their second amended complaint, what respondents seek is the annulment of TCT No. 122309, Resolutions No. 330 and 2345, as well as the deed of sale and amended deed of sale of the subject lot between Cebu City and petitioners.

Second, while respondents are seeking the cancellation of TCT No. 122309, they are not themselves claiming title to or right of possession of the subject lot. It must be emphasized that in their second amended complaint, they even abandoned their demand for a right of way over the property.

Finally, the subject lot was part of Lot No. 899-D-2 which Cebu City expropriated for the construction of a city street.

From the foregoing facts, it is readily apparent that respondents were not the real-parties-in-interest to institute Civil Case No. CEB-21193 for annulment of TCT No. 122309.

In a case for annulment of title, the plaintiff must allege two essential facts: (1) that plaintiff was the owner of the land, and (2) that the defendant illegally dispossessed the plaintiff of the property. Absent either of these allegations, the plaintiff is considered not the proper party to cause the cancellation of the title of the defendant.[29]

In their second amended complaint, respondents as plaintiffs unequivocally alleged:

- That when the plaintiff [respondents herein] bought lot no. 899-D-1, they did so in the belief that they had an outlet to Escario Street through lot no. 899-D-2 owned by defendant City of Cebu and covered by T.C.T. No. 49454 which is a road lot as shown by the following annotation on said title xxx.
- Lot No. 899-D-2 being a road lot, cannot be the subject of sale, as it is outside the commerce of man xxx.[30]

In their prayer, respondents sought neither ownership nor possession of the subject lot but only cancellation of the

private title of petitioners over the property on the ground that this is part of a public road.[31]

Clearly, respondents have no interest in the title or possession of Lot No. 899-D-2-A. The situation would have been different had respondents maintained their demand for a right of way over the property. But as the records disclose, they abandoned this demand. Respondents, therefore, are not at all the proper parties to file for annulment of petitioners' title.

Moreover, in essence and effect, Civil Case No. CEB-21193 is actually for reversion of the subject lot, as a portion of Lot No. 899-D-2, to the public domain.

Reversion is a proceeding by which the State seeks the return of lands of the public domain or the improvements thereon through the cancellation of private title erroneously or fraudulently issued over it.[32] The one crucial element which sets it apart from all other actions involving possession or title to property is the positive averment in the complaint of state ownership of the property in dispute.[33]

In a similar situation in *East Asia Traders, Inc. v. Republic of the Philippines*,[34] we held:

We reviewed very carefully respondent's allegations in its complaint. In a nutshell, respondent alleged that the defendants (herein petitioner and its predecessors-in-interest) procured their lot [which] is inalienable because the DENR investigation disclosed that it was intended by the government for the construction of a national road; that defendants' titles are null and void and should be cancelled and, therefore, Lot 4355 should be reverted to the State. These allegations are sufficient to constitute a cause of action for reversion. (Emphasis supplied)

Even the decisions of the RTC and the CA were ultimately for reversion of the subject lot to the dominion of Cebu City. In declaring null and void Resolutions No. 330 and No. 2345 of the Sangguniang Panlungsod of Cebu, the deed of sale, the amended deed of sale, and TCT No. 122309 issued in the name of petitioners, both courts virtually restored to Cebu City title over the subject lot; only, they omitted ordering the reinstatement of TCT No. 49454 in the name of Cebu City. Furthermore, in not granting the claim of respondents for payment of damages for the alleged demolition of their structures on the subject lot, the lower courts did not recognize the right of respondents to erect and maintain structures on said property.

The cause of action involved in Civil Case No. CEB-21193 being, in reality, one for reversion of public land, respondents cannot be considered the proper parties therein

In *VSC Commercial Enterprises, Inc. v. Court of Appeals*,[35] the Court had occasion to identify the real party in interest in an action for reversion:

Under Rule 3, Section 2 of the Revised Rules of Court, a real party in interest is defined as "the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit." "Interest" within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. The interest of the party must also be personal and not one based on a desire to vindicate the constitutional right of some third and unrelated party. Real interest, on the other hand, means a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest.

In the case at bar, the private respondents are mere lessees of the property in question. As such, they have no present substantial and personal interest with respect to issues involving ownership of the disputed property. The only interest they have, in the event that petitioner's title over the subject property is cancelled and ownership reverts to the State, is the hope that they become qualified buyers of the subject parcel of land. Undoubtedly, such interest is a mere expectancy. Even the private respondents themselves claim that in case of reversion of ownership to the State, they only have "pre-emptive rights" to buy the subject property; that their

real interest over the said property is contingent upon the government's consideration of their application as buyers of the same. It is settled that a suit filed by a person who is not a party in interest must be dismissed.[36] (Emphasis supplied)

The Court stressed in VSC that real interest means a substantial interest; as distinguished from "mere expectancy," or a future, contingent, subordinate, or consequential interest.[37]

Applied to the present case, herein respondents are not even lessees of the subject lot; they do not claim to have been occupying the property in any capacity. Their sole interest is in the use of the property as access to Escario Street. Such interest is merely tangential to any issue regarding the ownership and possession of the property; hence, it is not sufficient to vest in respondents legal standing to sue for reversion of the property. If at all, their cause of action is only for an easement of right of way over it. This was what they initially sought when they filed their original complaint. Unfortunately, they abandoned such cause of action when they failed to allege the same in their Second Amended Complaint. Under Section 8, Rule 10, Rules of Court, an amended complaint supersedes an original one. The original complaint is deemed withdrawn and no longer considered part of the record.[38]

Respondents having no real interest in the subject lot under their Second Amended Complaint, they have no legal personality to file the action for reversion of public land.[39] It is not merely a rule of procedure but a requirement of law that reversion be instituted in the name of the Republic of the Philippines. Section 101 of the Public Land Act is categorical:

Section 101. All actions for the reversion to the government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth [now Republic] of the Philippines.

In fine, the RTC acted without jurisdiction when it entertained the Second Amended Complaint of respondents even when the latter was not a real party-in-interest. The February 23, 2000 Decision rendered by the RTC was an utter nullity, without legal effect or binding force whatsoever, even upon defendant Cebu City which does not appear on record to have appealed from it.[40]

But then, it would be all too pointless to merely set aside all the proceedings in this case to make way for the proper filing of a case for reversion -- such recourse will only throw the parties back to a state of limbo, their resources exhausted in litigations and counter-litigations; and worse, keep the subject lot mired in controversy, utterly useless to the parties for another number of years.

Considering that all the pleadings and records are with the Court, it is urgent that we settle here and now the question on the validity of the reconveyance of the subject lot by Cebu City to petitioners.

Lot No. 899-D-2-A, being part of Lot No. 899-D, which was expropriated by Cebu City for the construction of N. Escario Street, is property of the public domain, the reconveyance of which is subject to strict legal requirements.

Foremost among the requirements is that the public property sought to be reconveyed be alienable.

As a general rule, local roads used for public service are considered public property under the absolute control of Congress; hence, local governments have no authority to control or regulate their use.[41] However, under Section 10, Chapter II of the Local Government Code,[42] Congress delegated to political subdivisions some control of local roads, viz.:

Section 21. Closure and Opening of Roads. (a) A local government unit may, pursuant to an ordinance, permanently or temporarily close or open any local road, alley, park, or square falling within its jurisdiction: Provided, however, That in case of permanent closure, such ordinance must be approved by at least two-thirds (2/3) of all the members of the Sanggunian, and when necessary, an adequate substitute for the public facility

that is subject to closure is provided.

(b) No such way or place or any part thereof shall be permanently closed without making provisions for the maintenance of public safety therein. A property thus permanently withdrawn from public use may be used or conveyed for any purpose for which other real property belonging to the local government unit concerned may be lawfully used or conveyed: Provided, however, That no freedom park shall be closed permanently without provision for its transfer or relocation to a new site.

Moreover, through the Revised Charter of Cebu City (Republic Act No. 3857),^[43] Congress specifically delegated to said political subdivision the following authority to regulate its city streets:

Section 31. Legislative powers. Any provision of law and executive orders to the contrary notwithstanding, the City Council shall have the following legislative powers:

(34) To provide for the laying out, construction, improvement and maintenance, including lighting, cleaning, and sprinkling of streets, avenues, boulevards, alleys, sidewalks, wharves, piers, parks, cemeteries, and other public places, and to regulate the use thereof; to provide for the construction and maintenance and regulate the use of bridges, viaducts and culverts; to close any city road, street, alley, boulevard, avenue, park or square. Property thus withdrawn from public servitude may be used or conveyed for any purpose for which other real property belonging to the city may be lawfully used or conveyed. (Emphasis supplied).

The other requirement for a valid reconveyance is that it be established that the former owner or his successors-in-interest, petitioners in this case, have the right to repurchase said property. As we explained in *Fery v. Municipality of Cabanatuan*:^[44]

The question presented by the petitioner and demurrer is this: When private land is expropriated for a particular public use, and that particular public use is abandoned, does the land so expropriated return to its former owner?

The answer to that question depends upon the character of the title acquired by the expropriator, whether it be the State, a province, a municipality, or a corporation which has the right to acquire property under the power of eminent domain. If, for example, land is expropriated for a particular purpose, with the condition that when that purpose is ended or abandoned the property shall return to its former owner, then, of course, when the purpose is terminated or abandoned the former owner reacquires the property so expropriated. If, for example, land is expropriated for a public street and the expropriation is granted upon condition that the city can only use it for a public street, then, of course, when the city abandons its use as a public street, it returns to the former owner, unless there is some statutory provisions to the contrary. Many other similar examples might be given. If, upon the contrary, however, the decree of expropriation gives to the entity a fee simple title, then, of course, the land becomes the absolute property of the expropriator, whether it be the State, a province, or municipality, and in that case the non-user does not have the effect of defeating the title acquired by the expropriation proceedings. (10 R.C.L., 240, sec. 202; 20 C.J., 1234, secs. 593-599, and numerous cases cited; *Reichling vs. Covington Lumber Co.*, 57 Wash., 225; 135 Am. St. Rep., 976; *McConlihay vs. Wright*, 121 U.S., 201.) (Emphasis supplied.)

The enunciated rule in *Fery* is still controlling to this day.

However, in *Moreno v. Mactan-Cebu International Airport Authority*,^[45] we clarified that where there is preponderant evidence of the existence of a right to repurchase, the former owner of an expropriated property is entitled to exercise such option once the public purpose for which the local government initially intended the expropriated property is abandoned or not pursued.

Further elucidating on the right of the former owner to repurchase the expropriated property, we held in *Mactan-Cebu International Airport Authority v. Court of Appeals*,^[46] *Reyes v. National Housing Authority*^[47]

and *Air Transportation Office v. Gopuco, Jr.*,^[48] that where there is insufficient evidence that the former owners of expropriated properties were granted the right to repurchase the same, the latter may not insist on recovering their properties even when the public purpose for which said properties were expropriated is abandoned.

It should be emphasized that in all the foregoing four cases, the government contested the right of the former owners to repurchase the expropriated properties; and the former owners utterly failed to prove, by preponderant evidence, the existence of the right to repurchase said properties.

In the present case, there exists no doubt that Cebu City repudiated its right to use the subject lot for other public purpose; and instead, recognized the right of the former owner or his successor-in-interest to repurchase the same.

In exercise of its discretion to declare a city street or part thereof abandoned, the Cebu City council unanimously issued Resolutions No. 330 and No. 2345, declaring the subject lot vacant and available for conveyance. Respondents themselves acknowledge that the subject lot was not included in the construction of Escario Street.

The wisdom and intent of these Resolutions cannot be gainsaid. Through the Resolutions, Cebu City ineluctably recognized the right of petitioners, as successors-in-interest of the former owner, to repurchase the subject lot. The Resolutions, issued by the city government in exercise of its regular and official functions, constitute clear and positive evidence of the intention of Cebu City to return or reconvey to the former owner or his successor-in-interest, by way of sale, the portion of the expropriated property that is no longer needed for the purpose for which it was intended.

All said, respondents not only lacked the legal personality to institute Civil Case No. CEB-21193; they also have no legal basis to challenge the reconveyance of Lot No. 899-D-2-A by Cebu City to petitioners for Resolutions No. 330 and 2345 of the Sangguniang Panlungsod of Cebu, the deed of sale and amended deed of sale between Cebu City and petitioners, and TCT No. 122309 which were all validly issued in favor of respondents.

With the foregoing disquisition, we dispense with the discussion of the remaining issues raised by petitioners.’

WHEREFORE, the petition is GRANTED. The March 20, 2002 Decision and August 20, 2002 Resolution of the Court of Appeals, as well as the February 23, 2000 Decision of the Regional Trial Court, are ANNULLED and SET ASIDE. The complaint in Civil Case No. CEB-21193 is DISMISSED.

Costs against respondents.

SO ORDERED.

Ynares-Santiago, (Chairperson, Third Division), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Rebecca de Guia-Salvador with the concurrence of Associate Justices Eugenio S. Labitoria and Teodoro P. Regino; rollo, p. 56.

[2] Rollo, p. 36.

[3] Id. at 77.

[4] Exh. “1,” records, p. 122.

[5] Resolution No. 1741, records, p. 131.

[6] Id.

[7] Exh. “A,” records, p. 14.

- [8] Id. at 15.
- [9] Id. at 16.
- [10] Id. at 14.
- [11] Id. at 17.
- [12] Id. at 126.
- [13] Records, p. 126.
- [14] Id. at 18.
- [15] Supra at 15.
- [16] Records, p. 20.
- [17] As cited in CA Decision, rollo, p. 50.
- [18] Id. at 47.
- [19] Id. at 50.
- [20] Complaint, records, pp. 1-2.
- [21] Records, pp. 9 and 45.
- [22] Id. at 26.
- [23] Id. at 52.
- [24] Rollo, p. 46.
- [25] Id. at 69.
- [26] Petition, rollo, p. 12.
- [27] RTC decision, rollo, p. 45.
- [28] CA decision, id. at 65-66.
- [29] *Katon v. Palanca*, G.R. No. 151149, September 7, 2004, 437 SCRA 565, 577.
- [30] Second amended complaint, records, p. 46.
- [31] Id. at 48.
- [32] *Morandarte v. Court of Appeals*, G.R. No. 123586, August 12, 2004, 436 SCRA 213, 223.
- [33] *Tancuntian v. Gempesaw*, G.R. No. 149097, October 18, 2004, 440 SCRA 431, 439, citing *Heirs of Kionisala v. Heirs of Dacut*, 428 Phil. 249 (2002).
- [34] G.R. No. 152947. July 7, 2004, 433 SCRA 716, 727.
- [35] 442 Phil. 269 (2002).
- [36] *VSC Commercial Enterprises, Inc. v. Court of Appeals*, supra note 35, at 276-277.
- [37] Id. at 277.

[38] *The Philippine American Life & General Insurance Company v. Brevia*, G.R. No. 147937, November 11, 2004, 442 SCRA 217, 223; *Verzosa v. Court of Appeals*, 359 Phil. 425, 437 (1998); *Vlason Enterprises Corporation v. Court of Appeals*, 369 Phil. 269, 302 (1999).

[39] *Lu Do and Lu Ym Corporation v. Aznar Brothers Realty Co.*, G.R. No. 143307, April 26, 2006, 488 SCRA 315, 330.

[40] *Tankiko v. Cezar*, 362 Phil. 184, 193 (1999).

[41] *Macasiano v. Diokno*, G.R. No. 97764, August 10, 1992, 212 SCRA 464, 469.

[42] Republic Act No. 7160, effective January 1, 1992.

[43] *Cebu Oxygen and Acetylene Co., Inc. v. Bercilles*, 160 Phil. 1155, 1158 (1975).

[44] 42 Phil 28, 29-30 (1921).

[45] 459 Phil 955, 962 (2003).

[46] 399 Phil. 695 (2000).

[47] 443 Phil. 603 (2003).

[48] G.R. No. 158563, June 30, 2005, 462 SCRA 544.

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