B.E. SAN DIEGO, INC., PETITIONER, VS. COURT OF APPEALS AND JOVITA MATIAS, RESPONDENTS.

G.R. No. 159230. October 18, 2010

Ponente: BRION, J.

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BRION, J.:

Petitioner B. E. San Diego, Inc. (B.E. San Diego) filed before the Court a petition for review on certiorari[1] assailing the September 25, 2002 decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 50213. The CA decision reversed the June 22, 1995 decision[3] of the Regional Trial Court (RTC) of Malabon, Branch 74, in Civil Case No. 1421-MN.[4] The RTC in turn granted the complaint for recovery of possession[5] instituted by B. E. San Diego against private respondent Jovita Matias (Matias).

THE FACTS

B.E. San Diego alleged that it is the registered owner of a parcel of land (subject property) located in Hernandez Street, Catmon, Malabon, covered by Transfer Certificate of Title (TCT) No. T-134756 of the Register of Deeds of Caloocan, and delineated as Lot No. 3, Block No. 13, with an area of 228 square meters. B. E. San Diego claimed that Matias has been occupying the subject property for over a year without its authority or consent. As both its oral and written demands to vacate were left unheeded, B. E. San Diego filed a complaint for the recovery of possession of the subject property against Matias on March 15, 1990 before the RTC.[6]

In her answer to the complaint, Matias alleged that she and her family have been living on the subject property since the 1950s on the basis of a written permit issued by the local government of Malabon in 1954.[7] Matias stated that she and her family have introduced substantial improvements on the subject property and have been regularly paying realty taxes thereon. She further claimed that she is a legitimate beneficiary of Presidential Decree (PD) No. 1517[8] and PD No. 2016,[9] which classified the subject property as part of the Urban Land Reform Zone (ULRZ) and an Area for Priority Development (APD).

More importantly, she questioned B. E. San Diego's claim over the subject property by pointing out that the title relied on by B. E. San Diego (TCT No. T-134756) covers a property located in Barrio Tinajeros, Malabon, while the subject property is actually located in Barrio Catmon, Malabon. Matias thus claimed that the property she is occupying in Barrio Catmon is different from the property that B. E. San Diego seeks to recover in the possessory action before the RTC.[10]

The RTC found no issue as to the identity of the property, ruling that the property covered by B. E. San Diego's TCT No. T-134756, located in Barrio Tinajeros, is the same property being occupied by Matias, located in Barrio Catmon. The RTC took judicial notice of the fact that Barrio Catmon was previously part of Barrio Tinajeros. It found that the Approved Subdivision Plan and tax declarations showed that the subject property is located in Barrio Catmon, Malabon. The RTC thus declared that B. E. San Diego sufficiently proved its right to recover possession of the subject property on the basis of its TCT No. T-134756. As opposed to B. E. San Diego's clear

right, it found Matias' claimed of possession over the subject property as a long-time occupant and as a beneficiary of PD Nos. 1517 and 2016 unfounded.[11]

On appeal, the CA disagreed with the RTC's findings. It considered the discrepancy in the location significant and declared that this should have prompted the RTC to require an expert witness from the concerned government agency to explain the matter. Since it was undisputed that Matias was in actual possession of the subject property at the time of the filing of the complaint, the CA declared that her possession should have been upheld under Article 538 of the Civil Code.[12] The CA also upheld Matias' possession based on PD Nos. 1517 and 2016. [13]

As its motion for reconsideration of the CA's judgment was denied,[14] B. E. San Diego filed the present petition for review on certiorari under Rule 45 of the Rules of Court.

THE PETITION FOR REVIEW ON CERTIORARI

B. E. San Diego contends that the CA erred in reversing the RTC's finding on the sole basis of a discrepancy, which it claims has been explained and controverted by the evidence it presented. It assails the CA decision for failing to consider the following evidence which adequately show that the property covered by its TCT No. T-134756 is the same property occupied by Matias:

- TCT No. T-134756 issued in the name of B. E. San Diego, covering a property delineated as Lot No. 3, Block No. 13;

- Approved Subdivision Plan showing Lot No. 3, Block No. 3 is situated in Barrio Catmon, Malabon;

- Tax Declaration No. B-005-00296 issued in the name of B. E. San Diego, referring to a property covered by TCT No. T-134756;

- Testimonial evidence of B. E. San Diego's witness that the property described in TCT No. T-134756 is the same property occupied by Matias; and

- Judicial notice taken by the RTC of Malabon, based on public and common knowledge, that Barrio Catmon was previously part of Barrio Tinajeros, Malabon.

B. E. San Diego also alleges that Matias is estopped from alleging that the property she is occupying is different from the property covered by its TCT No. T-134756. Matias previously moved to dismiss its complaint for recovery of possession of the subject property (accion publiciana), raising res judicata as ground.[15] She alleged that the accion publiciana[16] is barred by the judgment in an earlier ejectment case,[17] as both involved the same parties, the same subject matter, and the same cause of action. The ejectment case involved a parcel of land covered by TCT No. T-134756, located at Hernandez Street, Barrio Catmon, Malabon; Matias never questioned the identity and location of the property in that case.[18] B. E. San Diego thus contends that Matias, by raising the ground of res judicata, has impliedly admitted there is no difference in the subject matter of the two actions and, thus, could no longer question the identity and location of the subject property.

In controverting B. E. San Diego's petition, Matias relies on the same points that the CA discussed in its decision.

THE COURT'S RULING

The Court finds the petition meritorious.

From the errors raised in the petition, what emerges as a primary issue is the identity of the subject matter of the case - whether the subject property that Matias occupies is the same as the property covered by B. E. San Diego's title. Our reading of the records discloses that the two are one and the same.

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B. E. San Diego's TCT No. T-134756 refers to a property located in Barrio Tinajeros, Malabon, but the subject property sought to be recovered from Matias is in Barrio Catmon, Malabon. In ruling for Matias, the CA declared that this discrepancy should have been explained by an expert witness, which B. E. San Diego failed to present.

The Court, however, does not find the testimony of an expert witness necessary to explain the discrepancy. The RTC declared that the discrepancy arose from the fact that Barrio Catmon was previously part of Barrio Tinajeros. The RTC has authority to declare so because this is a matter subject of mandatory judicial notice. Section 1 of Rule 129 of the Rules of Court[19] includes geographical divisions as among matters that courts should take judicial notice of. Given that Barrio Tinajeros is adjacent to Barrio Catmon,[20] we find it likely that, indeed, the two barrios previously formed one geographical unit.

Even without considering judicial notice of the geographical divisions within a political unit, sufficient evidence exists supporting the RTC's finding that the subject property B. E. San Diego seeks to recover is the Barrio Catmon property in Matias' possession. TCT No. T-134756 identifies a property in Barrio Tinajeros as Lot No. 3, Block No. 13. Although B. E. San Diego's tax declaration refers to a property in Barrio Catmon, it nevertheless identifies it also as Lot No. 3, Block No. 13, covered by the same TCT No. T-134756. Indeed, both title and the tax declaration share the same boundaries to identify the property. With this evidence, the trial court judge can very well ascertain the facts to resolve the discrepancy, and dispense with the need for the testimony of an expert witness.[21]

Additionally, we agree with B. E. San Diego that Matias can no longer question the identity of the property it seeks to recover when she invoked res judicata as ground to dismiss the accion publiciana that is the root of the present petition. An allegation of res judicata necessarily constitutes an admission that the subject matter of the pending suit (the accion publiciana) is the same as that in a previous one (the ejectment case).[22] That Matias never raised the discrepancy in the location stated in B.E. San Diego's title and the actual location of the subject property in the ejectment suit bars her now from raising the same. Thus, the issue of identity of the subject matter of the case has been settled by Matias' admission and negates the defenses she raised against B. E. San Diego's complaint.

We then proceed to resolve the core issue of the accion publiciana -who between the parties is entitled possession of the subject property. Notably, the judgment in the ejectment suit that B. E. San Diego previously filed against Matias is not determinative of this issue and will not prejudice B. E. San Diego's claim.[23] While there may be identity of parties and subject matter, there is no identity of cause of action between the two cases; an action for ejectment and accion publiciana, though both referring to the issue of possession, differ in the following manner:

> First, forcible entry should be filed within one year from the unlawful dispossession of the real property, while accion publiciana is filed a year after the unlawful dispossession of the real property. Second, forcible entry is concerned with the issue of the right to the physical possession of the real property; in accion publiciana, what is subject of litigation is the better right to possession over the real property. Third, an action for forcible entry is filed in the municipal trial court and is a summary action, while accion publiciana is a plenary action in the RTC.[24]

B. E. San Diego anchors it right to possess based on its ownership of the subject property, as evidenced by its title. Matias, on the other hand, relies on (1) the 1954 permit she secured from the local government of Malabon, (2) the Miscellaneous Sales Application, (3) the tax declarations and realty tax payments she made annually beginning 1974, (4) her standing as beneficiary of PD Nos. 1517 and 2016, and (5) her long possession of the subject property since 1954 up to the present. Unfortunately for Matias, her evidence does not establish a better right of possession over B. E. San Diego's ownership.

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The settled doctrine in property law is that no title to register land in derogation of that of the registered owner shall be acquired by prescription or adverse possession.[25] Even if the possession is coupled with payment of realty taxes, we cannot apply in Matias' case the rule that these acts combined constitute proof of the possessor's claim of title.[26] Despite her claim of possession since 1954, Matias began paying realty taxes on the subject property only in 1974 - when B. E. San Diego filed an ejectment case against her husband/predecessor, Pedro Matias.[27] Considering these circumstances, we find Matias' payment of realty taxes suspect.

Matias cannot rely on the Miscellaneous Sales Application and the local government permit issued in her favor; neither establishes a clear right in favor of Matias over the subject property. A sales application, in the absence of approval by the Bureau of Lands or the issuance of a sales patent, remains simply as an application that does not vest title in the applicant.[28] The local government permit contained only a statement of the local executive that the case between the local government and B. E. San Diego was decided by a trial court in favor of the former.[29]

The CA erroneously upheld Matias' claim of possession based on PD Nos. 1517 and 2016. Matias is not a qualified beneficiary of these laws. The tenants/occupants who have a right not to be evicted from urban lands "does not include those whose presence on the land is merely tolerated and without the benefit of contract, those who enter the land by force or deceit, or those whose possession is under litigation." [30] At the time of PD 1517's enactment, there was already a pending ejectment suit between B. E. San Diego and Pedro Matias over the subject property. "Occupants of the land whose presence therein is devoid of any legal authority, or those whose contracts of lease were already terminated or had already expired, or whose possession is under litigation, are not considered `tenants' under the [PD Nos. 1517]."[31] The RTC correctly ruled that Matias cannot be considered a legitimate tenant who can avail the benefits of these laws no matter how long her possession of the subject property was.

WHEREFORE, we GRANT the petition for review on certiorari, and REVERSE the September 25, 2002 decision and May 20, 2003 resolution of the Court of Appeals in CA-G.R. CV No. 50213. The June 22, 1995 decision of the Regional Trial Court of Malabon in Civil Case No. 1421-MN is REINSTATED. Costs against the respondent.

SO ORDERED.

[*]Nachura, [**]Brion, (Acting Chairperson), Villarama, Jr., [***]Mendoza, and Sereno, JJ., concur.

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[*] Designated Additional Member of the Third Division, per Special Order No. 907 dated October 13, 2010.

[**] Designated Acting Chairperson of the Third Division, per Special Order No. 906 dated October 13, 2010.

[***]Designated Additional Member of the Third Division, per Special Order No. 911 dated October 15, 2010.

[1] Rollo, pp. 3-24.

[2] Penned by Associate Justice Delilah Vidallon-Magtolis, with Associate Justice Renato C. Dacudao and Associate Justice Mario L. Guariña concurring, id. at 29-35.

[3] Penned by Judge (now CA Associate Justice) Bienvenido L. Reyes, records, pp. 329-338.

[4] Also assailed in the present petition is the May 20, 2003 resolution of the CA, denying B. E. San Diego's motion for reconsideration of the September 25, 2002 decision, rollo, p. 37.

[5] Records, pp. 2-4.

[6] Id. at 2-4.

[7] Payahag dated December 24, 1954, id. at 277.

[8] Entitled "Proclaiming Urban Land Reform in the Philippines and Providing for the Implementing Machinery Thereof," Section 6 of which grants preferential rights to landless tenants/occupants to acquire land within urban land reform areas.

[9] Entitled "Prohibiting the Eviction of Occupant Families from Land Identified and Proclaimed as Areas for Priority Development (APD) or as Urban Land Reform Zones and Exempting Such Land from Payment of Real Property Taxes," Section 2 of which prohibits the eviction of qualified tenants/occupants.

[10] Records, pp. 12-16.

[11] Id. at 336-339.

[12] Art. 538. Possession as a fact cannot be recognized at the same time in two different personalities except in the cases of co-possession. Should a question arise regarding the fact of possession, the present possessor shall be preferred; if there are two possessors, the one longer in possession; if the dates of the possession are the same, the one who presents a title; and if all these conditions are equal, the thing shall be placed in judicial deposit pending determination of its possession or ownership through proper proceedings.

[13] Rollo, pp. 33-34.

[14] Supra note 4.

[15] Records, pp. 61-63.

[16] Civil Case No. 1421-MN.

[17] Civil Case No. 668-87 is one of the four ejectment cases instituted by B. E. San Diego against the Matias family before the Metropolitan Trial Court of Malabon, Branch 56.

[18] The RTC denied Matias' motion to dismiss in its Order dated March 5, 1991, records, pp. 95-96. The CA dismissed Matias' certiorari petition (CA-G.R. No. 26172) assailing the denial of her motion to dismiss in its Order dated October 10, 1991, id. at 124.

[19] RULES OF COURT, Rule 129, Section 1. Judicial notice, when mandatory. - A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

[20] Malabon City map at http://www.kabeetmaps.com/flash/detail.php?name_id=1124592.

[21] Expert witnesses are not allowed to give opinion evidence if from the other evidence available, the judge can be put in possession of the facts. Such evidence, if permitted, would result in the substitution of the judgment of experts for that of the court, R. Francisco, Evidence (1994 ed.), pp. 351-352, citing McBain, California Evidence Manual, p. 278.

[22] For res judicata to apply, there must be (1) a former judgment or order that is final and executory, (2) rendered by a court that has jurisdiction over the subject matter and the parties, (3) the former judgment or order was resolved on the merits, and (4) there is identity of parties, subject matter, and cause of action between the first

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and second actions, see Agustin v. de los Santos, G.R. No. 168139, January 20, 2009, 576 SCRA 576, 586.

[23] The Metropolitan Trial Court (MTC) of Malabon, Branch 56, granted B. E. San Diego's ejectment complaint against Matias (see rollo, pp. 41-44). The RTC of Malabon, Branch 72, reversed the MTC's decision after finding that B. E. San Diego's complaint failed to allege that it had prior physical possession of the property (see records, pp. 64-66).

[24] Regis v. CA, G. R. No. 153914, July 31, 2007, 528 SCRA 611, 620; see also Custodio v. Corrado, G. R. No. 146082, July 30, 2004, 435 SCRA 500.

[25] PD No. 1529, Section 47.

[26] Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property, Director of Lands v. CA, G.R. No. 103949, June 17, 1999, 308 SCRA 317, 324-325, citing Republic v. CA, 258 SCRA 712 (1996).

[27] Civil Case No. 3667.

[28] Javier v. CA, G. R. No. 101177, March 28, 1994, 231 SCRA 498, 507.

[29] Supra note 7.

[30] Estreller v. Ysmael, G. R. No. 170264, March 13, 2009, 581 SCRA 247, 256.

[31] Ibid.

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