

AGRIFINA PANGANIBAN, PETITIONER, VS. SPOUSES ROMEO ROLDAN AND ELIZABETH ROLDAN, RESPONDENTS.

G.R. No. 163053. November 25, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals (CA) dated March 31, 2004 in CA-G.R. SP No. 67696 and its resolution denying the motion for reconsideration thereof.

The facts are as follows:

On April 7, 1998, petitioner Agrifina Panganiban filed a complaint against herein respondents, spouses Romeo Roldan and Elizabeth Roldan, for recovery of possession and damages in the Municipal Trial Court

(MTC), Third Judicial Region, Subic, Zambales. She alleged that she was the registered owner of a parcel of land with an area of 271 square meters, covered by Original Certificate of Title (OCT) No. P-12388, located in Ilwas, Subic, Zambales; that sometime in 1984, respondents entered the land and built a small hut on a portion thereof without her knowledge and consent; that respondents asked permission if they could temporarily reside thereat, since they came from Bicol and had no place to stay in Zambales; that she took pity on them and agreed on the condition that they would vacate upon demand; that in 1997, petitioner asked respondents to vacate the land, as she would be putting up a fence thereon; that respondents, who were occupying an area measuring about 103 sq m, refused to vacate; that because of their obstinate refusal to vacate, she suffered mental anxiety; and that for being deprived of the use and enjoyment of the land, respondents should be required to pay a rental of P500.00 per month from December 1997 until they vacate.

In their defense, respondents denied that they entered into an agreement with petitioner allowing them to stay on the land. They claimed that they had been occupying the lot as caretakers of the heirs of Concepcion dela Paz-Lesaca since 1973, as evidenced by a Kasunduan. They alleged that the lot was part of the land covered by Transfer Certificate of Title (TCT) No. 14884 issued in 1972, registered in the name of Concepcion dela Paz-Lesaca; and that in December 1997, two (2) men who were barangay officials went to the premises in order to survey the lot for purposes of putting up a fence. Respondents thus objected to the intrusion knowing that petitioner had no right or personality to eject them from the land. Respondents averred that petitioner was merely a neighbor and that they were surprised to find out that she was able to secure a new title over their portion of the land.

On March 23, 2001, the MTC rendered judgment[2] in favor of petitioner. The MTC did not admit respondents' evidence presented during the trial consisting of: (1) the TCT of the subject property registered under the name of Concepcion dela Paz-Lesaca; and (2) the Kasunduan purportedly executed by Concepcion dela Paz-Lesaca allowing Spouses Roldan to stay on the land on the ground that these matters were not raised in their Answer or in their Pre-trial Brief. The MTC discerned a "variance of the allegation and proof," and thus considered the evidence as no proof at all.[3] The MTC stated that in such situation, the remedy was to amend the Answer to

conform to the evidence, and this, respondents failed to do. The dispositive portion of the decision, as amended on June 1, 2001 to include payment of rentals, reads as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants:

- For the defendants to vacate the premises;
- For the defendants to pay the plaintiff the amount of P20,000.00 as rental from the date of the filing of the complaint until March 2001 and to pay the additional amount of P500.00 every month thereafter until the defendants vacate and surrender the premises to the plaintiff;
- To pay attorney's fees in the amount of P10,000.00; and
- To pay the costs of the proceedings.

SO ORDERED.[4]

On appeal, the Regional Trial Court of Olongapo City affirmed the MTC Decision in toto. It, likewise, disregarded the Kasunduan and the TCT, since they were not raised as a defense in respondents' answer, and the same could not be raised for the first time on appeal.[5]

Aggrieved, respondents went up to the CA.

On March 31, 2004, the CA reversed the decision and found for respondents. It admitted the document denominated as Kasunduan, which provided that respondents were allowed to stay on the subject land by its owners, heirs of Concepcion dela Paz-Lesaca, as well as TCT No. T-14882 issued in 1972 in the name of Concepcion dela Paz-Lesaca. The CA found that the title from which respondents derived their right of possession was an earlier title, thus, superior to petitioner's OCT P-12388, which was only issued on June 22, 1994[6] by virtue of a free patent application. Accordingly, the appellate court ruled that respondents' right of possession must prevail. The dispositive portion of the assailed decision reads as follows:

WHEREFORE, the Petition is hereby GRANTED. The Decision of the Regional Trial Court of Olongapo City, Branch 72, is hereby ANNULED AND SET ASIDE. Appellants['] right to possess the disputed land is hereby recognized.

SO ORDERED.[7]

Thus, the instant petition where petitioner raises the following assignment of errors:

- THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE ALLEGED TITLE OF A CERTAIN CONCEPCION DELA PAZ LESACA, NAMELY TCT NO. T-14882, AND THE DOCUMENT DENOMINATED "KASUNDUAN" SHOULD HAVE BEEN ADMITTED BY THE COURT A QUO.
- THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE SAID EXCLUDED DOCUMENTS ARE FAVORABLE TO THE CAUSE OF THE RESPONDENTS AND GAVE THEM RIGHTS TO THE POSSESSION OF THE PROPERTY IN LITIGATION.
- THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT TCT NO. T-14882 OF CONCEPCION DELA PAZ LESACA ALSO COVERS THE PROPERTY IN LITIGATION.

[4.] THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT RESPONDENTS MAY NOT BE DISTURBED IN THEIR POSSESSION AND THAT ANOTHER PROCEEDING FOR QUIETING OF TITLE IS NECESSARY IN ORDER TO PROVE THAT PETITIONER'S TITLE IS SUPERIOR TO THAT OF CONCEPCION DELA PAZ LESACA.[8]

The petition is denied.

The Court finds no reversible error in the ruling of the appellate court, admitting as evidence the Kasunduan and TCT No. T-14882. We agree with the following justification of the CA:

Section 5, Rule 10 of the Rules of Court provides that issues not raised by the pleadings may be tried by express or implied consent of the parties, as if they had been raised in the pleadings and the court can validly resolve them. There is express consent to the evidence on an issue not raised in the pleading when the adverse party agrees to its presentation by the other party. There is implied consent when the adverse party fails to object thereto.

The general rule is that a judgment must conform to the pleading and the theory of the action under which the case is tried. But court may also rule and render judgment on the basis of the evidence before it, even though the relevant pleading has not been previously amended, so long as no surprise or prejudice to the adverse party is thereby caused and there is express or implied consent to the presentation of evidence. In fact, there is no need to formally amend the pleadings to raise the issues because such issues are considered as if they have been in the pleadings.

In the case at bench, since there was no dispute that no objection was interposed by appellee to the presentation of the evidence, the same should have been admitted by the court a quo, consonant with Section 5, Rule 10 and the rule on liberal construction under Section 2, Rule 1 of the Rules of Court.[9]

We have stressed that the rule on amendment need not be applied rigidly, particularly where no surprise or prejudice is caused the objecting party. Where there is a variance in defendant's pleadings and the evidence adduced at the trial, the Court may treat the pleading as if it had been amended to conform to the evidence.[10] In *Royal Cargo Corporation v. DFS Sports Unlimited, Inc.*, [11] the Court stated that:

The failure of a party to amend a pleading to conform to the evidence adduced during trial does not preclude adjudication by the court on the basis of such evidence which may embody new issues not raised in the pleadings. x x x Although, the pleading may not have been amended to conform to the evidence submitted during trial, judgment may nonetheless be rendered, not simply on the basis of the issues alleged but also on the issues discussed and the assertions of fact proved in the course of the trial. The court may treat the pleading as if it had been amended to conform to the evidence, although it had not been actually amended. x x x Clearly, a court may rule and render judgment on the basis of the evidence before it even though the relevant pleading had not been previously amended, so long as no surprise or prejudice is thereby caused to the adverse party. Put a little differently, so long as the basic requirements of fair play had been met, as where the litigants were given full opportunity to support their respective contentions and to object to or refute each other's evidence, the court may validly treat the pleadings as if they had been amended to conform to the evidence and proceed to adjudicate on the basis of all the evidence before it. (Emphasis supplied)

Thus, the CA cannot be faulted for admitting the evidence because it found them necessary to prove respondents' right of possession. A scrutiny of the records further reveals that there is no prohibition on the admission of the Kasunduan and the TCT. The evidence when presented and offered were not actually excluded by the lower court. In the pre-trial brief, respondents (defendants therein) reserved the right to present additional documentary exhibits in the course of the trial, considering that the evidence was not yet available at the time.[12] For the proper disposition and resolution of the issue as to who has the right of possession of the subject land, the admission and consideration of the documents were in order.

In unlawful detainer and forcible entry cases, the only issue to be determined is who between the contending parties has the better right to possess the contested property, independent of any claim of ownership. However, where the issue of ownership is so intertwined with the issue of possession, the courts may pass upon the issue of

ownership if only to determine who has the better right to possess the property.[13]

In the instant case, petitioner's cause of action for ejectment was grounded on her alleged ownership of the property, as shown by the title registered under her name, OCT P-12388. The said title was issued on June 22, 1994 and registered on July 18, 1994.[14] Petitioner asserted that since she had title over the land, and that respondents had none, she could rightfully order respondents to vacate. Respondents vehemently disputed this claim, knowing that the land possessed by them was titled in the name of another person, and registered under the name of Concepcion dela Paz-Lesaca under TCT No. T-14882, issued on March 1, 1972. The mother title of TCT No. T-14882 was OCT No. 39 issued in 1912 by the Register of Deeds of Zambales. Petitioner's title over the land, which was obtained at a much later date, appears to be rather specious since no two titles can be issued over the same parcel of land.

Given these conflicting claims, we must abide by the rule that where two certificates of title purport to include the same land, the earlier in date prevails.[15] Thus, without any legal or factual basis to lay claim over the land, petitioner had clearly no right to order respondents' eviction from the land.

Respondents' right to occupy the land emanates from the authority given to them by the registered and rightful owner of the land, Concepcion dela Paz-Lesaca, as evidenced by the Kasunduan which was executed on August 8, 1973. From then on, respondents were in actual possession of the land. As against a written or documentary evidence giving respondents the authority to occupy the land, petitioner's mere claim that she merely tolerated respondents' stay on the land cannot be given weight. The Kasunduan executed by the rightful owner is sufficient proof that petitioner has no privity of contract with respondents and, therefore, has no right to evict them from the land. By virtue of the title and the written agreement which are prior in time, coupled with the actual possession of the subject land, respondents' right to possess the land should enjoy greater preference under the circumstances.

While it is conceded that respondents' right to possess may be temporary since they are mere caretakers of the land owned by Concepcion dela Paz-Lesaca, this possession may not be disturbed unless petitioner successfully proves that her title is superior to that of Concepcion dela Paz-Lesaca. And such conflict in ownership should be threshed out in another proceeding.

WHEREFORE, the decision of the Court of Appeals dated March 31, 2004 in CA-G.R. SP No. 67696 is AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Penned by Associate Justice Romeo A. Brawner, with Associate Justices Rebecca de Guia-Salvador and Jose C. Reyes, Jr., concurring; rollo, pp. 35-40.

[2] CA rollo, pp. 70-74.

[3] Id. at 73.

[4]. Id. at 79.

[5] Id. at 92.

[6] Id. at 21.

[7] Rollo, p. 39.

[8] Id. at 17.

[9] Id. at 37-38.

[10] Sy v. Court of Appeals, G.R. No. 124518, December 27, 2007, 541 SCRA 371.

[11] G.R. No. 158621, December 10, 2008, 573 SCRA 414.

[12] CA rollo, p. 34.

[13] Pascual v. Coronel, G.R. No. 159292, July 12, 2007, 527 SCRA 474.

[14] CA rollo, p. 21.

[15] Metropolitan Waterworks and Sewerage Systems v. Court of Appeals, G.R. No. 103558, November 17, 1992, 215 SCRA 783.

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