

**NIEVES PLASABAS AND MARCOS MALAZARTE, PETITIONERS, VS.
COURT OF APPEALS (SPECIAL FORMER NINTH DIVISION),
DOMINADOR LUMEN, AND AURORA AUNZO, RESPONDENTS.**

G.R. No. 166519. March 31, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Assailed in this petition for review on certiorari under Rule 45 of the Rules of Court are the May 12, 2004 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 43085 and the December 1, 2004 Resolution[2] denying reconsideration of the challenged decision.

The pertinent facts and proceedings follow.

In 1974, petitioners[3] filed a complaint for recovery of title to property with damages before the Court of First Instance (now, Regional Trial Court [RTC]) of Maasin, Southern Leyte against respondents. The case was docketed as Civil Case No. R-1949. The property subject of the case was a parcel of coconut land in Canturing, Maasin, Southern Leyte, declared under Tax Declaration No. 3587 in the name of petitioner Nieves with an area of 2.6360 hectares.[4] In their complaint, petitioners prayed that judgment be rendered confirming their rights and legal title to the subject property and ordering the defendants to vacate the occupied portion and to pay damages.[5]

Respondents, for their part, denied petitioners' allegation of ownership and possession of the premises, and interposed, as their main defense, that the subject land was inherited by all the parties from their common ancestor, Francisco Plasabas.[6]

Revealed in the course of the trial was that petitioner Nieves, contrary to her allegations in the complaint, was not the sole and absolute owner of the land. Based on the testimonies of petitioners' witnesses, the property passed on from Francisco to his son, Leoncio; then to Jovita Talam, petitioner Nieves' grandmother; then to Antonina Talam, her mother; and then to her and her siblings--Jose, Victor and Victoria.[7]

After resting their case, respondents raised in their memorandum the argument that the case should have been terminated at inception for petitioners' failure to implead indispensable parties, the other co-owners - Jose, Victor and Victoria.

In its April 19, 1993 Order,[8] the trial court, without ruling on the merits, dismissed the case without prejudice, thus:

This Court, much as it wants to decide the instant case on the merits, being one of the old inherited cases left behind, finds difficulty if not impossibility of doing so at this stage of the proceedings when both parties have already rested their cases. Reluctantly, it agrees with the defendants in the observation that some important indispensable consideration is conspicuously wanting or missing.

It is not the Court's wish to turn its back on the crucial part of the case, which is the pronouncement of the judgment to settle the issues raised in the pleadings of the parties once and for all, after all the time, effort and expense spent in going through the trial process.

But, rules are rules. They have to be followed, to arrive at a fair and just verdict. Section 7, Rule 3 of the Rules of Court provides:

"x x x Compulsory joinder of indispensable parties. - Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants."

What the Court wants to say here is that the instant case should have been dismissed without prejudice a long time ago for lack of cause of action as the plaintiffs spouses Marcos Malazarte and Nieves Plasabas Malazarte have no complete legal personality to sue by themselves alone without joining the brothers and sisters of Nieves who are as **INDISPENSABLE** as the latter in the final determination of the case. Not impleading them, any judgment would have no effectiveness.

They are that indispensable that a final decree would necessarily affect their rights, so that the Court cannot proceed without their presence. There are abundant authorities in this regard. Thus -

"The general rule with reference to the making of parties in a civil action requires the joinder of all indispensable parties under any and all conditions, their presence being a sine qua non of the exercise of judicial power. (*Borlasa v. Polistico*, 47 Phil. 345, 348) For this reason, our Supreme Court has held that when it appears of record that there are other persons interested in the subject matter of the litigation, who are not made parties to the action, it is the duty of the court to suspend the trial until such parties are made either plaintiffs or defendants. (*Pobre, et al. v. Blanco*, 17 Phil. 156). x x x Where the petition failed to join as party defendant the person interested in sustaining the proceeding in the court, the same should be dismissed. x x x When an indispensable party is not before the court, the action should be dismissed. (*People, et al. v. Rodriguez, et al.*, G.R. Nos. L-14059-62, September 30, 1959) (sic)

"Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants. (Sec. 7, Rule 3, Rules of Court). The burden of procuring the presence of all indispensable parties is on the plaintiff. (39 Amjur [sic] 885). The evident purpose of the rule is to prevent the multiplicity of suits by requiring the person arresting a right against the defendant to include with him, either as co-plaintiffs or as co-defendants, all persons standing in the same position, so that the whole matter in dispute may be determined once and for all in one litigation. (*Palarca v. Baginsi*, 38 Phil. 177, 178).

"An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without inquiring or affecting such interest; a party who has not only an interest of such a nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. (67 C.J.S. 892). Indispensable parties are those without whom no action can be finally determined." (*Sanidad v. Cabataje*, 5 Phil. 204)

WHEREFORE, IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, both the complaint and the counterclaim in the instant case are ordered **DISMISSED** without prejudice. No pronouncement as to costs.

SO ORDERED.[9]

Aggrieved, petitioners elevated the case to the CA. In the challenged May 12, 2004 Decision,[10] the appellate court affirmed the ruling of the trial court. The CA, further, declared that the non-joinder of the indispensable parties would violate the principle of due process, and that Article 487 of the Civil Code could not be applied considering that the complaint was not for ejectment, but for recovery of title or a reivindicatory action.[11]

With their motion for reconsideration denied in the further assailed December 1, 2004 Resolution,[12] petitioners filed the instant petition.

The Court grants the petition and remands the case to the trial court for disposition on the merits.

Article 487 of the Civil Code provides that any one of the co-owners may bring an action for ejectment. The article covers all kinds of actions for the recovery of possession, including an accion publiciana and a reivindicatory action. A co-owner may file suit without necessarily joining all the other co-owners as co-plaintiffs because the suit is deemed to be instituted for the benefit of all. Any judgment of the court in favor of the plaintiff will benefit the other co-owners, but if the judgment is adverse, the same cannot prejudice the rights of the unimpleaded co-owners.[13]

With this disquisition, there is no need to determine whether petitioners' complaint is one for ejectment or for recovery of title. To repeat, Article 487 of the Civil Code applies to both actions.

Thus, petitioners, in their complaint, do not have to implead their co-owners as parties. The only exception to this rule is when the action is for the benefit of the plaintiff alone who claims to be the sole owner and is, thus, entitled to the possession thereof. In such a case, the action will not prosper unless the plaintiff impleads the other co-owners who are indispensable parties.[14]

Here, the allegation of petitioners in their complaint that they are the sole owners of the property in litigation is immaterial, considering that they acknowledged during the trial that the property is co-owned by Nieves and her siblings, and that petitioners have been authorized by the co-owners to pursue the case on the latter's behalf.[15] Impleading the other co-owners is, therefore, not mandatory, because, as mentioned earlier, the suit is deemed to be instituted for the benefit of all.

In any event, the trial and appellate courts committed reversible error when they summarily dismissed the case, after both parties had rested their cases following a protracted trial commencing in 1974, on the sole ground of failure to implead indispensable parties. The rule is settled that the non-joinder of indispensable parties is not a ground for the dismissal of an action. The remedy is to implead the non-party claimed to be indispensable. Parties may be added by order of the court on motion of the party or on its own initiative at any stage of the action and/or at such times as are just. If petitioner refuses to implead an indispensable party despite the order of the court, the latter may dismiss the complaint/petition for the plaintiff's/petitioner's failure to comply therewith.[16]

WHEREFORE, premises considered, the instant petition is GRANTED, and the case is REMANDED to the trial court for appropriate proceedings. The trial court is further DIRECTED to decide on the merits of the civil case WITH DISPATCH.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio Morales,[*] Chico-Nazario, and Peralta, JJ., concur

[*]Additional member in lieu of Associate Justice Ma. Alicia Austria-Martinez per Special Order No. 602 dated March 20, 2009.

[1] Penned by Associate Justice Arturo D. Brion (now a member of this Court), with Associate Justices B.A. Adekunle and Perlita J. Tria Tirona, concurring; rollo, pp. 25-42.

[2] Penned by Associate Justice Arturo D. Brion (now a member of this Court), with Associate Justices Perlita J. Tria Tirona and Rosalinda Asuncion-Vicente, concurring; rollo, pp. 43-46.

- [3] Substituted by their heirs. (Records, p. 87.)
- [4] Id. at 1-2.
- [5] Id. at 3-4.
- [6] Id. at 13-19.
- [7] Id. at 213-214.
- [8] Id. at 213-218.
- [9] Id. at 216-218.
- [10] Supra note 1.
- [11] CA rollo, pp. 103-111.
- [12] Supra note 2.
- [13] Baloloy v. Hular, G.R. No. 157767, September 9, 2004, 438 SCRA 80, 90-91.
- [14] Adlawan v. Adlawan, G.R. No. 161916, January 20, 2006, 479 SCRA 275, 283.
- [15] Rollo, pp. 54-59.
- [16] PepsiCo, Inc. v. Emerald Pizza, Inc., G.R. No. 153059, August 14, 2007, 530 SCRA 58, 67.

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