

**SPOUSES DENNIS BARIAS AND DIVINA BARIAS, PETITIONERS, VS.
HEIRS OF BARTOLOME BONEO, NAMELY, JUANITA, LEOPOLDO,
ANTONIO, CARMELO, NIMFA, EDWIN, ELPIDIO, ANGELICA, EMILIO,
BARTOLO...**

G.R. No. 166941. December 14, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Respondents, Heirs of Bartolome Boneo, are registered owners of a parcel of land (the property) identified as Lot No. 1086, Cad-483-D in Sta. Teresa, Malilipot, Albay, covered by Original Certificate of Title No. P-29864 which was issued on the basis of a free patent granted on October 3, 1991.[1]

Respondents, alleging that the Spouses Dennis and Divina Barias (petitioners) have been occupying a portion of the property for residential purposes on their (respondents') mere tolerance, and that despite verbal demands and a written demand by letter of August 18, 2001, petitioners refused to vacate the premises, filed a complaint[2] for unlawful detainer and damages.

In their Answer,[3] petitioners charged respondents with forum shopping, claiming that the portion of the property subject of the complaint was also the subject of a case between petitioners and respondents' predecessor-in-interest Silvestra Bo Boneo (Silvestra) pending appeal before the Court of Appeals. They also claimed that Carmen Bendicio-Belir, the mother of petitioner Divina Barias, bought a portion of the property from Silvestra, respondents' stepmother, by a Deed of Absolute Sale[4] dated August 8, 1994.

The MCTC, which found respondents guilty of forum shopping,[5] dismissed respondents' complaint in this wise:

x x x The defendant-spouses submitted to the court a Deed of Absolute sale dated August 8, 1994 xxx which showed that Silvestra Bo Boneo, the plaintiffs' predecessor-in-interest, had sold a portion of the lot in question (Lot No. 1086) to the former consisting of 1,143 square meters. This deed was duly registered in the Office of the Register of Deeds on August 9, 1994. The sale of a portion of Lot No. 1086 by Silvestra Bo Boneo to the defendants binds the plaintiffs in this case. The rule is settled that plaintiffs as successor-in-interest over the lot, merely stepped into the shoes of the original owner, Silvestra. They are deemed to succeed only to such remaining interest of Silvestra over Lot No. 1086. This rule applies even if plaintiffs were able to secure a title xxx only in the year 2000. Until such Deed of Sale executed in defendant[']s favor has been declared null and void by final judgment, the court has no recourse but to respect the same.[6] (underscoring supplied)

On appeal to the Regional Trial Court (RTC), respondents denied that they are Silvestra's successors-in-interest. They claimed that she was the second wife of Crispin Boneo and stepmother of the late Bartolome Boneo, their father and immediate predecessor-in-interest, hence, they can not be considered as the legal heirs or even successors-in-interest of Silvestra. They thus concluded that the Deed of Absolute Sale over the disputed portion of the property executed by Silvestra in favor of the herein petitioners has no binding effect upon them.[7]

While the RTC did not find respondents guilty of forum shopping, it nevertheless dismissed their appeal, holding that petitioners have a superior right to possess the property.[8] Brushing aside respondents' argument that they are not Silvestra's successors-in-interest, the RTC held that when Silvestra died, respondents moved to substitute her in the case between her and petitioners.[9]

On appeal, the Court of Appeals reversed the RTC decision[10] in this wise:

It was error for both the RTC and MTC to have sustained respondents'[-herein petitioners'] claim which was based on a deed of sale, as against the claim of petitioners[-herein respondents], which was based on a free patent (OCT No. P-29864) issued by the Bureau of lands on October 3, 1991.

In *Pitargue v. Sorilla*,[11] the plaintiff was considered as having a better right to the possession of the public land which he applied for against any other public land applicant, which right may be protected by the possessory action of forcible entry or by another suitable remedy that the rules provide, even while his application was still pending consideration, and while title to the land was still with the government.

If in said case, a mere applicant was held to have acquired superior possessory right over a portion of public land, with more reason, therefore, that . . . petitioners[-herein respondents'] right to the possession of the subject property ought to be upheld. For here, petitioners[-herein respondents'] claim is predicated upon Free Patent No. 050509-91143P issued in the name of "Hrs. of BARTOLOME BONEO Rep. by Juanita Boneo." This free patent has the force and effect of a Torrens Title. And it is axiomatic that a Torrens Title cannot be indirectly or collaterally attacked, as respondents apparently sought to do in this case. On the other hand, respondents'[-herein petitioners'] predecessor-in-interest, Silvestra Boneo, does not at all appear to be a patentee or grantee of the disputed premises by any of the means recognized by law as she is only the stepmother of Bartolome Boneo. Neither was it shown that Silvestra Boneo was ever a prior applicant to the contested lot.

It was also reversible error for the RTC to hold that petitioners merely stepped into the shoes of Silvestra Boneo on the basis mainly of the motion for substitution that they filed in CA-G.R. SP No. 62015.

For, the records showed that petitioners [herein respondents] sought to substitute Silvestra Boneo not necessarily because they are her successors-in-interest, but because, among other things, it was the heirs of Bartolome Boneo, alleged collateral relations of Silvestra Boneo, who bankrolled the expenses in the prosecution of this case. x x x.[12] (emphasis partly in the original, partly supplied; underscoring supplied)

Hence, petitioners' present petition faulting the Court of Appeals

-I-

X X X IN HOLDING THAT: "IT WAS ERROR FOR BOTH THE RTC AND THE MTC TO HAVE SUSTAINED RESPONDENTS' CLAIM, WHICH WAS BASED ON A DEED OF SALE, AS AGAINST THE CLAIM OF PETITIONERS WHICH WAS BASED ON A FREE PATENT (OCT No. P-29864) ISSUED BY THE BUREAU OF LANDS ON OCTOBER 3, 1991."

-II-

X X X IN HOLDING THAT: "IT WAS ALSO REVERSIBLE ERROR FOR THE RTC TO HOLD THAT PETITIONERS MERELY STEPPED INTO THE SHOES OF SILVESTRA BONEO ON THE BASIS MAINLY OF THE MOTION FOR SUBSTITUTION THAT THEY FILED IN CA-G.R. SP NO. 62015."

-III-

X X X IN NOT FINDING PETITIONERS GUILTY OF "FORUM SHOPPING" WARRANTING OUTRIGHT DISMISSAL OF THEIR PETITION.[13]

The petition is bereft of merit.

The test in determining the presence of forum shopping is whether in two or more cases pending, there is identity of (1) parties, (2) rights or causes of action, and (3) reliefs sought.[14]

The case filed by Silvestra, which was pending when respondents filed the complaint for unlawful detainer, was for annulment of the deed of sale that she executed in favor of petitioner Divina Barias' mother.[15] Thus, the causes of action of that case and respondents' complaint for unlawful detainer subject of the present petition are different: the cause of action of the first is the alleged fraud in inducing Silvestra to execute the deed of sale, while the cause of action of the second is the alleged unlawful possession of petitioners of that portion of the property which was allegedly sold by Silvestra. The reliefs sought in both cases are likewise different.

In an unlawful detainer case, the sole issue for resolution is physical or material possession of the property involved, independent of any claim of ownership by any of the parties.[16] Where the issue of ownership is raised by any of the parties, the courts may pass upon the same in order to determine who has the right to possess the property.[17] The adjudication is, however, merely provisional and would not bar or prejudice an action between the same parties involving title to the property.[18]

As both parties raise the issue of ownership in the unlawful detainer case, its resolution boils down to which of their respective documentary evidence deserves more weight.[19]

Respondents have a Torrens title over the property which was issued in 1991. The age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof.[20] The deed of sale which was executed by Silvestra in 1994 and was the subject of a case for annulment could not affect the herein respondents-registered owners' superior right to possess the property.[21]

It bears emphasis that this determination of ownership in an ejectment case is only initial and only for the sole purpose of settling the issue of possession.[22] It does not prejudice the case for annulment of the deed of sale.

WHEREFORE, the petition is DENIED.

Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., concur.

[1] RTC records, p. 7.

[2] Id. at 1-4.

[3] Id. at 14-18.

[4] Id. at 38-39, 47.

[5] Id. at 63-64.

[6] Id. at 63.

[7] Id. at 78.

[8] Vide id. at 104-111.

[9] Id. at 110.

[10] Decision of February 3, 2005, penned by Court of Appeals Associate Justice Renato C. Dacudao, with the concurrence of Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao. CA rollo, pp. 142-150.

[11] 92 Phil. 5 (1952).

[12] CA rollo, pp. 147-148. Citations omitted.

[13] Rollo, p. 12.

[14] *De Chavez v. Office of the Ombudsman*, G.R. No. 168830-31, February 6, 2007, 514 SCRA 638, 655.

[15] Vide Decision in Civil Case No. T-1837, RTC records, pp. 48-54.

[16] *Pascual v. Coronel*, G.R. No. 159292, July 12, 2007, 527 SCRA 474, 482.

[17] Vide *ibid*.

[18] Vide *ibid*.

[19] Vide *id.* at 483.

[20] *Arambulo v. Gungab*, G.R. No. 156581, September 30, 2005, 471 SCRA 640, 649-650.

[21] Vide *Pascual v. Coronel*, G.R. No. 159292, July 12, 2007, 527 SCRA 474, 484.

[22] *Supra* note 20 at 650.

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