

HEIRS OF BENJAMIN MENDOZA, NAMELY: PACITA MENDOZA, VICTOR MENDOZA, JOSE MENDOZA, CESAR MENDOZA, EFREN MENDOZA, EDUARDO MENDOZA, EDNA MENDOZA AND BEVERLY MENDOZA, PETITIONERS, VS...*G.R. No. 170247. September 17, 2008*

Ponente: TINGA, J.

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Petitioners assail the Decision[1] of the Court of Appeals in CA-G.R. SP No. 75607 dated 23 January 2004, and its Resolution[2] dated 27 October 2005, for want of jurisdiction. The assailed decision reversed and set aside the Decision[3] dated 13 December 2002 of the Regional Trial Court (RTC) of Tagaytay City, Branch 18 which in turn affirmed the Decision[4] dated 18 December 2001 of the Municipal Trial Court in Cities (MTCC) of Tagaytay City, Branch 1 dismissing the complaint for unlawful detainer[5] filed by respondent J.A. Development Corp.

The Court of Appeals culled the following facts from the records:

On August 20, 2001, petitioner J.A. Development Corporation, (hereafter referred to as petitioner), filed a complaint against Benjamin Mendoza, John Does and Jane Does (hereafter referred to as respondents) for unlawful detainer with the Municipal Trial Court, Tagaytay City. The complaint states that petitioner, by reason of the purchase of the property in litigation in 1992, is the valid, lawful, and registered owner of Lot Nos. 1993A-2; 1993-B-2; 1993-B-7; 1993-B-12; and 1993-B-13 covered by Transfer Certificate of Title (TCT) Nos. T-26609; T-26610; T-26611; T-26612; and T-26613, respectively; that petitioner is also the owner of Lot 1993-B-14 covered by TCT No. T-16586 still in the name of petitioner's predecessor-in-interest; that all of the lots are located in Barangay Dapdap and Barangay Calabuso, Tagaytay City; that sometime after the purchase, petitioner noted the occupation thereof by respondents on the subject property which was previously tolerated by petitioner's predecessor-in-interest; that petitioner informed respondents it now owns the subject property and that respondents do not have any right to occupy the same; that petitioner offered respondents, through respondent Benjamin Mendoza, the amount of Fifty Thousand Pesos (P50,000.00) to facilitate their departure from the property; that despite receipt of the amount, respondents refused to vacate the same; that respondent Benjamin Mendoza executed for and in behalf of the respondents, a kasunduan dated August 26, 1994 acknowledging petitioner's ownership of the property; that despite the execution of the kasunduan, respondents did not vacate the subject property and requested they be allowed to stay until petitioner needed the property; that in 1999, petitioner demanded the turnover of the property for development of the same; that respondents refused to do so and declared they are no longer honoring the kasunduan; that respondents allowed several strangers to occupy the property; that petitioner sent two demand letters dated October 29, 1999 and December 2, 2000, respectively, ordering them to vacate the property; and that despite receipt thereof, respondents refused to vacate and surrender the same.

Respondent Benjamin Mendoza filed his answer with special defenses and counterclaim dated August 28, 2001. Respondent posited that he is the owner of the subject property, being the heir of one of the equitable

owners thereof by virtue of the Friar Land Act or Act No. 1120 as evidenced by Sales Certificate No. 2933 executed by the Bureau of Lands; that the Transfer Certificates of Title under petitioner's name are null and void, being derived from TCT No. 2079 (1216) which was spuriously borne out of a fictitiously reconstituted TCT No. 1858 (21877) in violation of Act No. 1120 and PD No.1529.

Further, respondent and his ancestors have been in actual possession of the subject property since 1914 as shown in the Order dated January 11, 2000 of Branch 18, Regional Trial Court, Tagaytay City in Civil Case No. TG-1904 (Quieting of Title and Cancellation of Certificates of Title and Damages); that the Partial Decision dated February 18, 2000 issued by the same court particularly placed the respondent as heir of the equitable owner of the subject property; that the issue of possession is inextricably intertwined with the issue of ownership since petitioner derived its alleged ownership through the TCTs issued in its name; that the case is dismissible on the ground of *litis pendentia* since the right of possession and issue of ownership have already been established in Civil Case No. TG-1904 before the Regional Trial Court; that the petitioner never alleged prior physical possession of the subject property; that there is a pending motion for writ of preliminary injunction dated July 25, 2001 praying for petitioner to refrain from harassing respondents to give up possession, from cultivating, planting, harvesting crops, and residing in the subject property; and damages.

On October 21, 2001, petitioner filed its pre-trial brief adding that respondents, by virtue of the *kasunduan*, expressly recognized absolute ownership over the property; that respondents never mentioned any claim of ownership at the time of the execution of the *kasunduan*; and that the Court of Appeals, in CA GR SP No. 60770 entitled *J.A. Development Corp. vs. Hon. Alfonso S. Garcia, et al.*, in its Decision dated August 29, 2001 set aside the Partial Decision dated February 18, 2000 for being issued with grave abuse of discretion.

The Municipal Trial Court issued a Decision dated December 18, 2001, dismissing the complaint for lack of jurisdiction on the ground that the issue of possession cannot be determined without dwelling into the issue of ownership. The dispositive portion reads:

WHEREFORE, in view of the foregoing, this complaint must perforce be DISMISSED for lack of jurisdiction of this court for the reasons already afore-discussed. The counterclaim is likewise dismissed.

The MTC's ratio decidendi in arriving at the dispositive portion, reads:

It largely appears from the evidence so far submitted by the defendant in this case that the issue of ownership is yet to be resolved in the Regional Trial Court of Tagaytay City. While it may be true and jurisprudence are already legion that the issue of ownership is closely interrelated and intertwined with the issue of possession in an ejectment case, the first level court can pass upon such issue of ownership if only to determine the issue of possession.

But it cannot find any application in this case where the issue of ownership is generally in issue, and the issue of possession cannot be determined without dwelling into the issue of ownership; thus, it is beyond the jurisdiction of this court to do so.

Petitioner appealed the decision to the Regional Trial Court which affirmed in toto the decision rendered by the lower court. In its Decision dated December 13, 2002, the decretal portion states:

WHEREFORE, finding no error in the judgment appealed from, the decision rendered by the Municipal Trial Court in Cities, Branch 1, Tagaytay City on December 18, 2001 in Civil Case No. 442-2002 is hereby affirmed en toto (sic), with costs against herein Plaintiff-Appellant. (Citations Omitted) (Emphasis supplied)[6]

The Court of Appeals reversed the decision of the RTC and remanded the case to the MTCC for proper disposition principally on the ground that the prior action instituted in another court involving the subject property--i.e., Civil Case No. TG-1904 lodged with the RTC, Branch 18, Tagaytay City, the partial decision which had already been set aside--could not abate the present action for ejectment.

Petitioners (respondents in CA-G.R. SP No. 75607) filed a Motion for Reconsideration[7] on the ground that they were not furnished a copy of the petition for review nor of the appellate court's decision. The motion was denied in the Resolution[8] dated 27 October 2005, with the Court of Appeals stating that the registry receipt (attached to the petition for review filed by respondent herein) indicates petitioners' receipt of the petition for review. Likewise, the return cards show that petitioners received their copy of the 27 February 2003 Resolution requiring them to comment on the petition as well as of the 23 January 2004 Decision on 10 March 2003 and 28 January 2004, respectively.

The issue presented by petitioners in this Petition for Review,[9] dated 7 December 2005 is essentially the same as that they posed in their motion for reconsideration. They contend that despite the fact that their predecessor-in-interest, Benjamin Mendoza, was represented by the same counsel throughout the proceedings in the MTCC and the RTC, said counsel was not duly served by respondent with a copy of the petition for review which it filed with the Court of Appeals in CA- G.R. SP No. 75607. It was allegedly Benjamin Mendoza himself, and not his counsel of record, who had been served with the notices of the appellate court and the decision which petitioners now question.

In its Comment/Opposition[10] dated 4 April 2006, respondent avers that grave abuse of discretion is not a ground for a petition for review such as the one filed in this case. Moreover, the assailed decision is allegedly already final and executory as evidenced by the Entry of Judgment dated 13 February 2004. As such, it is already immutable. At any rate, the appellate court allegedly correctly ruled that the MTCC has jurisdiction to hear the unlawful detainer case filed before it.

The records of this case disclose that Benjamin Mendoza had indeed been consistently represented by the same counsel, Atty. Sergio F. Angeles (Atty. Angeles), in the proceedings before the MTCC and the RTC. It is therefore odd that respondent neglected to serve on Atty. Angeles a copy of its petition for review with the Court of Appeals and instead thought it more appropriate to serve its petition on Benjamin Mendoza himself. As the appellate court itself acknowledged, the registry receipt[11] attached to the petition for review shows that a copy of the same was served not on Atty. Angeles but on Benjamin Mendoza. The return card attached to the Notice of Resolution[12] dated 28 February 2003, as well as that attached to the Notice of Judgment[13] dated 26 January 2004, also shows that service was made upon Benjamin Mendoza only.

Section 2, Rule 13 of the 1997 Rules of Civil Procedure provides that if any party has appeared by counsel, service upon him shall be made upon his counsel unless service upon the party himself is ordered by the court. Notice or service made upon a party who is represented by counsel is a nullity. Notice to the client and not to his counsel of record is not notice in law. While this rule admits of exceptions, such as when the court or tribunal orders service upon the party or when the technical defect is waived, none applies in this case.[14]

The conclusion that petitioners were deprived of due process is inescapable. The proceedings in the appellate court, which culminated in the promulgation of the assailed decision, were obviously flawed. Despite the Entry of Judgment dated 13 February 2004, the assailed decision could not have become final and executory on that date. In fact, in an apparent suspension of its own rules, the Court of Appeals entertained petitioners' motion for reconsideration although it ultimately denied the same.

Be that as it may, we find that the disposition of this case on the merits will best serve the ends of justice. The lack of notice to petitioners' counsel deprived them of the opportunity to participate in the proceedings before the Court of Appeals particularly on the issue of whether the MTCC has jurisdiction over the unlawful detainer case filed by respondent. A remand to the Court of Appeals for further proceedings, giving the parties the opportunity to ventilate their claims on this issue, is therefore appropriate.

ACCORDINGLY, in the interest of due process, the Decision of the Court of Appeals in CA-G.R. SP No. 75607 dated 23 January 2004 and its Resolution dated 27 October 2005 are REVERSED and SET ASIDE. The case is REMANDED to the Court of Appeals for further proceedings. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., Concur.

[1] Rollo, pp. 37-44; penned by Associate Justice Buenaventura J. Guerrero and concurred in by Associate Justices Andres B. Reyes, Jr. and Regalado E. Maambong.

[2] Id. at 46-47.

[3] Id. at 83-92.

[4] Id. at 64-66.

[5] Id. at 48-55.

[6] Id. at 37-40.

[7] Id. at 7-9.

[8] Supra note 2.

[9] Id. at 25-36.

[10] Id. at 122-131.

[11] CA rollo, p. 32.

[12] Id. at 143.

[13] Id. at 148.

[14] Garrucho v. Court of Appeals, G.R. No. 143791, 14 January 2005, 448 SCRA 165, 171-172; De Leon v. Court of Appeals, 432 Phil. 774 (2002).

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