

**THE EPISCOPAL DIOCESE OF NORTHERN PHILIPPINES, REP. BY
VICTOR D. ANANAYO, CONVENTION SECRETARY, PETITIONER, THE
DISTRICT ENGINEER, MOUNTAIN PROVINCE ENGINEERING
DISTRICT, DEPART...**

G.R. No. 178606. December 15, 2009

Ponente: ABAD, J.

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ABAD, J.:

The Facts and the Case

Petitioner Episcopal Diocese of Northern Philippines or EDNP, a religious corporation, constructed a church building for its congregation on a lot in Lengey, Barangay Poblacion, Sabangan, Mountain Province. The property was covered by Tax Declaration 15922 in its name issued by the provincial assessor.[1]

Sometime in 2005, a certain Tomas Paredes (Paredes) told members of petitioner EDNP that the Office of the District Engineer of the Mountain Province Engineering District, Department of Public Works and Highways (MPED-DPWH) was going to build a multi-purpose gymnasium on the lot of the church. EDNP objected. After negotiations with Paredes, the parties agreed to have the gymnasium built instead on an area outside the church lot.

Later in October 2005, however, several men entered the church compound and began digging holes for the gym's foundation. In a letter, petitioner EDNP appealed to private contractor Felipe Moises (Moises) not to proceed with the construction. It sent a separate letter to respondent District Engineer Leonardo Leyaley of MPED-DPWH, also requesting him to stop the construction. But it continued unabated, forcing EDNP to file a complaint for forcible entry with prayer for a temporary restraining order (TRO) and preliminary injunction before the Municipal Circuit Trial Court (MCTC) of Bauko and Sabangan against respondent District Engineer Leyaley and Moises in Civil Case 329.

During the initial hearing for the issuance of a TRO, defendant Moises told the court that he was not the real contractor of the project but some other persons whom he named.[2] As a consequence of this revelation, petitioner EDNP amended its complaint to include the persons mentioned.

In their respective answers, the defendants contested the amended complaint in that it failed to show any cause of action against them, and alleged that the property in question did not belong to EDNP. They also argued that injunction will not lie against government projects. The defendants, however, would not categorically state nor admit that the construction was in fact based on any contract with the government.

Respondent District Engineer, the other defendants with him, and their counsels, did not show up at the preliminary conference set on April 27, 2006 despite notice. They submitted no explanation. Still, petitioner EDNP asked the court to allow the defendants to file their position papers. Consequently, the MCTC issued a preliminary conference order on the same date, terminating the preliminary conference and directing all parties to

submit their respective position papers together with their evidence.

On May 30, 2006 the MCTC rendered judgment, recognizing petitioner EDNP's right to possession of its church lot and holding that Moises and his men had illegally intruded into the property. It thus directed them to desist from disturbing EDNP's possession and to remove all structures they had in the meantime built on it. The MCTC dismissed the case as against the respondent District Engineer and the other contractors that Moises named for lack of cause of action as against them. The MCTC did not award damages or attorney's fees for lack of basis.

Moises appealed the decision to the Regional Trial Court (RTC) of Bontoc, Mountain Province in Civil Case 1224. Although the MCTC dismissed the complaint against respondent District Engineer, the latter filed a memorandum in the case through the Office of the Solicitor General (OSG). The RTC affirmed the decision of the MCTC.

Yet again, respondent District Engineer appealed the RTC decision to the Court of Appeals (CA) in CA-G.R. SP 96849. On February 20, 2007 the CA rendered judgment, setting aside the decisions of the MCTC and the RTC. The CA held that both courts below denied the District Engineer his right to due process. Instead of sending a copy of the order requiring the parties to file their position papers to the OSG, his counsel, the MCTC sent the same to Moises, his co-defendant.

And while the OSG filed a position paper for the District Engineer, the MCTC, said the CA, failed to consider it. Additionally, no valid judgment could be rendered in the case for failure of the plaintiff to implead the people of Barangay Poblacion who were indispensable parties in the ejectment suit, the gym being intended for their use. Petitioner EDNP filed a motion for reconsideration of its decision but the CA denied it.[3]

Issues Presented

The petition presents two issues:

1. Whether or not the MCTC denied respondent District Engineer's right to due process when no copy of the order requiring him to file his position papers with the MCTC was sent to his counsel, the OSG; and
2. Whether or not the people of Barangay Poblacion, Sabangan, Mountain Province, were indispensable parties in petitioner EDNP's action for forcible entry.

The Court's Rulings

One. The record shows that the MCTC addressed a copy of the order requiring the parties to file their position papers to respondent District Engineer personally rather than to the OSG[4] and that it was his co-defendant Moises who acknowledged receipt of such copy on behalf of the District Engineer. It was this circumstance that prompted the CA to rule that no valid service of the order was made on the District Engineer.

Still, the OSG in fact filed a position paper dated May 18, 2006 on behalf of respondent District Engineer. This shows that someone notified the OSG before that date of the need for it to file a position paper for its client. Apparently, it took the OSG 11 days by mail to file such paper for the MCTC received it only on May 29, 2006,[5] the day before the MCTC promulgated its decision. The CA inferred from this that the MCTC failed to consider that position paper when it decided the case, resulting in the denial of the District Engineer's right to be heard on his defense.[6]

Although it is not known when the OSG received notice that it needed to file a position paper in the case, the fact remains that it received actual notice. As petitioner EDNP correctly pointed out, lack of formal notice cannot prevail against the fact of actual notice.[7]

Besides, the OSG neither complained that it did not get formal notice to file a position paper nor did it ask that it

be given more time to prepare and file one. Rather, it took the risk of taking time to file its position paper. As it happened, the MCTC received the OSG's position paper just the day before the court came out with its decision. The OSG had no right to expect the MCTC to wait forever for its position paper.

What is more, respondent District Engineer had no right to complain of the denial of his right to be heard in his defense. He did not appear despite notice during the preliminary conference in the case nor bothered to explain why he did not do so. To be strict about it, he forfeited by such omission his right to submit a position paper. Indeed, by his default, the rules entitled petitioner EDNP to a judgment based on the complaint.[8]

But, precisely to avoid any possible technical problem in the issuance of such kind of judgment, EDNP itself pleaded with the MCTC to allow the District Engineer and the other defendants the chance to file their position papers. Since the District Engineer did in fact file such a position paper with the MCTC through the OSG, it will be utterly inequitable to allow him to complain that he had not been given the opportunity to be heard on his defense.

Also, the mere fact that the MCTC decision made no mention of respondent District Engineer's position paper does not mean that the court did not consider what that paper stated. Besides, the District Engineer's position paper merely reiterated the allegations and defenses he raised in his answer[9] to the complaint, which the MCTC considered in its decision.[10] Indeed, the MCTC dismissed the forcible entry case against respondent District Engineer for lack of cause of action.

Two. The CA upheld respondent District Engineer's view that the MCTC should have considered the inhabitants of Barangay Poblacion indispensable parties to the ejectment case since the land belonged to them and since it was for their benefit that the gym was to be built.

But, ownership of the land is not the issue in forcible entry actions. The issue in such actions is who among the parties has prior possession de facto.[11] While the trial court may have to determine the issue of ownership, such determination is only provisional, to ascertain who among the parties has a better right of possession.[12]

Here, the MCTC resolved the issue of ownership, ruling that the lot on which the gym was being built belonged to petitioner EDNP. The latter's evidence clearly shows how it came to possess the lot in question. It acquired the land through a deed of donation that Pedro Compalas Aglipay executed in favor of EDNP's predecessor-in-interest, the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America.

Petitioner EDNP has long declared the land in its name for tax purposes. And it continued to use the land from 1960 to the time the suit was filed, as evidenced by the baptismal records it kept, its register of activities, as well as the affidavits of witnesses. While the property was admittedly also being used as a public playground, a market place, and a parking lot, this did not make the people of Barangay Poblacion the owners of the land. Besides such additional uses are not inconsistent with EDNP's claim of ownership since the Episcopal Church in the Philippines almost always opened its lands to public access and use.

The claim that the people of Barangay Poblacion owned the land was based on a deed of donation that a certain Bishop Pedro Compalas Aglipay of the Aglipayan Church, also known as the Iglesia Filipina Independiente (IFI), purportedly executed in favor of the people of Barangay Poblacion. But the MCTC doubted the authenticity of such claim.

Respondent District Engineer alleges that Pedro Compalas Aglipay from whom EDNP derives its title was merely a caretaker of the property for the IFI. EDNP admits that Pedro Compalas Aglipay was indeed the caretaker of the property, but points out that it was his name that appeared on the tax declaration which originally covered the

property. EDNP, however, denies the existence of any Bishop of the Aglipayan Church by the name of Pedro Compalas Aglipay. At any rate, based on the opposing claims, one thing is certain: the property originally belonged to the IFI.

Unfortunately for respondent District Engineer, the evidence adduced by his co-defendants contradicts his stand that the lot was donated to the people of Barangay Poblacion. There is evidence that as early as 1963 some members of the IFI in Sabangan wrote their supreme bishop, the Obispo Maximo, protesting the donation that Pedro Compalas Aglipay made in petitioner EDNP's favor.[13] Obispo Maximo did not, however, take any action on such protest. On the contrary, two succeeding Obispo Maximo of the IFI, Rev. Tito E. Pasco and Rev. Godofredo J. David, recognized and affirmed such donation.[14] It was moreover a proposition supported by the existence of a concordat of full communion between the two churches and the fact that the IFI entrusted EDNP with jurisdiction over its members in Sabangan.

Respondent District Engineer invokes the decision of the RTC in Civil Case 787 that the people of Barangay Poblacion owned the lot in question. But the case was for quieting of title that petitioner EDNP filed in court. The RTC dismissed the action based on EDNP's failure to implead the people of Barangay Poblacion as indispensable parties whom the court believed had a valid claim to the property in dispute. Not being a party to that action, the people of Barangay Poblacion cannot claim that they should be deemed to have obtained a judgment of ownership of the land in their favor.

Petitioner EDNP was entitled to a judgment in its favor in the forcible entry case because of uncontested evidence that Moises and the men he engaged entered the land by strategy and stealth or force. What is more, the defendants did not adduce evidence that they entered the land on behalf and by authority of the people of Barangay Poblacion and on a claim that the latter owned the property. Respondent District Engineer did not present any document, official or otherwise, that showed that the local government had an interest in the construction of the gym. On the other hand, petitioner EDNP presented Resolution 2006-38 of the Sangguniang Bayan of Sabangan dated August 28, 2006,[15] denying any involvement of the Municipal Mayor, the Sanggunian, or its members, in the demolition of the church to give way to a gym.

Unfortunately, the defendants succeeded in constructing the gym and demolishing petitioner EDNP's church building. Still, this does not prevent the Court from ruling that the defendants forcibly entered the lot and seized possession of it from EDNP, entitling the latter to recover possession. This is of course without prejudice to any further action for the determination in a proper case of the true ownership of the land.

WHEREFORE, the court GRANTS the petition, REVERSES and SETS ASIDE the Decision dated February 20, 2007 and Resolution dated June 28, 2007 of the Court of Appeals in CA-G.R. SP 96849, and REINSTATES the Decision of the Municipal Circuit Trial Court of Bauko and Sabangan in Civil Case 329 in its entirety.

SO ORDERED.

Carpio, Carpio Morales[*], Leonardo-De Castro, and Del Castillo, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 807 dated December 7, 2009.

[1] Records, p. 231.

[2] Id. at 24.

[3] Petition for Review under Rule 45 of the Rules of Court.

[4] Records, p. 186.

[5] Id. at 361.

[6] CA rollo, p. 487.

[7] *Santiago v. Guadiz, Jr.*, G.R. No. 85923, February 26, 1992, 206 SCRA 590, 597. See also *Heirs of the Late Jesus Fran v. Salas*, G.R. No. 53546, June 25, 1992, 210 SCRA 303, 316 and *Melendres, Jr. v. Commission on Elections*, 377 Phil. 275, 290 (1999).

[8] Pursuant to Section 8, Rule 70 of the Rules of Court, and Section 7 of the Revised Rules on Summary Procedure.

[9] Records, pp. 89-103.

[10] Id. at 405-406.

[11] *Perez v. Falcatan*, G.R. No. 139536, September 26, 2005, 471 SCRA 21, 31.

[12] Rules of Court, Rule 70, Section 16.

[13] Exhibits 8 and 9 for the private respondents. Records, pp. 323-325.

[14] Id. at 234-236.

[15] Id. at 867-868.

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