

GENERAL MILLING CORPORATION, PETITIONERS, VS. NORBERTO CONSTANTINO, MEMIE DAGUAY, EDITHA DAGANO, TRECILY MARFORI, GARRY BALASE, ISIDRO GARGAR, SANDY TAPULGO, NERIZA CORBITA, RIC...

G.R. No. 195919. November 21, 2018

Ponente: TIJAM, J.

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TIJAM, J.:

Before Us is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court assailing the Decision[2] of the Court of Appeals (CA) dated October 28, 2009 and Resolution dated February 10, 2011 in CA-G.R. CV No. 65091, which reversed the Decision[3] of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 18 dated July 1, 1999 in Civil Case No. 91-132.

The Antecedent Facts

The instant controversy stemmed from a demolition of around 200 houses built on Lot Nos. 19053 and 21827, located in Umalag, Barangay Tablon, Cagayan de Oro City, covering an area of around 14,889 square meters (subject lands).[4]

On January 7, 1991, petitioner General Milling Corporation (GMC) wrote the Fiscal's Office of Cagayan de Oro City, claiming that it is the owner of the subject lands and accusing the occupants of the subject lands as squatters. Petitioner also wrote the Office of the Building Official of the Department of Public Works and Highways (DPWH).[5]

In a Letter[6] dated April 11, 1991, Engineer Flavia Merilles (Engr. Merilles) replied to GMC's counsel, Atty. Joel Cebido, as follows:

This is in reply to your request for an assistance from your (sic) office appertaining to the squatter's shanties illegally constructed on the lots situated at Umalag, Tablon, area of Cagayan de Oro City owned by your client, General Milling Corporation. Upon proper investigation, we found out that those houses, fences, and other structures erected and constructed thereon lots have no Building permit (sic) as required by Section 301 of P.D. 1906 of the National Building Code of the Philippines. Thus, the construction of said shanties is illegal and is in violation of the aforecited law.

In view thereof, you are hereby enjoined to stop all illegal building activities in the premises and comply with the requisites of the law with regard to securing the building permits before any further construction. Otherwise, you are enjoined to remove or demolish the same since such erection and construction of said shanties is a criminal offense punishable by law.[7] (Emphasis omitted)

On April 19, 1991, the respondents, residents of the subject lands, filed a Complaint for Cancellation of Miscellaneous Lease Application (MLA) (X-1) 47, Foreshore Lease Application (FLA) (X-1) 155, TCT No. T-15846 with Injunction and Damages and Prayer for Issuance of Temporary Restraining Order (TRO) against

GMC and Engr. Merilles before the RTC, Branch 18 of the Cagayan de Oro City, docketed as Civil Case No. 91-132.[8]

The trial court denied the application for TRO in an Order dated April 25, 1991. Hence, the demolition of the houses in subject lands proceeded. An ocular inspection conducted by the RTC on May 23, 1991 revealed that there were 34 houses left standing on the subject lands.[9]

On July 28, 1993, the respondents, sought to amend their complaint, which the RTC granted. In their amended complaint,[10] respondents alleged that they and their predecessors-in-interests occupied the subject lands since time immemorial as owners thereof. They built their houses and resided on the subject lands openly, publicly and notoriously, until they were disturbed, harassed and ejected by GMC without due process and any lawful order from the court.[11]

Respondents also questioned GMC's purported right of ownership over the subject lands, reiterating that they had been occupying the property since time immemorial. They claimed that GMC surreptitiously caused the survey and application for a MLA and FLA just prior to its take-over of the property. They argued that a corporation cannot acquire public lands occupied by private individuals who have preferential rights under Act. No. 496. They alleged that per record of the Department of Environment and Natural Resources (DENR) as of February 5, 1991, the subject lands are public lands, thus, whatever title or patent issued prior to the said date is a nullity. They contended that GMC misinterpreted the letter of Engr. Merilles to purposely pre-empt respondents' claims on the subject land. They claim that the demolition conducted on April 24, 1991 was done in violation of Section 28 of Republic Act (RA) No. 7279,[12] which discourages eviction and requires lawful order of the court, 30 days notice, adequate consultation on the manner of resettlement, presence of the local officials or their representatives during eviction or demolition and adequate relocation site before demolition can be effected. Thus, respondents claimed P500,000.00 as actual damages; P50,000.00 as moral damages, P10,000.00 as exemplary damages, P20,000.00 as attorney's fees; and P10,000.00 as litigation expenses.[13]

For its part, GMC claimed that it has lawful title to the property, claiming that Lot No. 19053 was registered in its name since 1973, while Lot No. 21827 has long been declared in the name of its predecessor-in-interest. It claimed that it was constrained to litigate, hence, entitled to P20,000.00 as attorney's fees.[14]

The trial of the case was delayed due to several postponements attributable to the parties. Meanwhile, it appearing that GMC attempted to enter the subject lands and construct buildings thereon, the RTC issued a Writ of Preliminary Injunction on February 11, 1997, enjoining GMC "from introducing or undertaking any construction in the litigated premises that would obstruct, impede or otherwise prevent the free access to and from plaintiffs residential houses." [15]

Trial of the case continued. Respondents presented as their witnesses Primitivo Lucido (Lucido) and Cristina Bajao (Bajao). On the other hand, GMC presented Bienvenido Bacus, GMC's engineer.[16]

The trial court ordered the parties to submit their memoranda but only respondents complied.

On October 27, 1998, respondents moved that GMC be declared in contempt of court for violating the February 11, 1997 Order of the RTC. They alleged that GMC continued to harass them in the enjoyment and possession of the subject lands, through the introduction of improvements and fences thereon. The RTC denied the respondents' motion.[17]

The Ruling of the RTC

On July 1, 1999, the RTC issued a Decision, the dispositive portion of which states:

WHEREFORE, in the light of the foregoing, this Court hereby renders judgment DISMISSING THE INSTANT CASE FOR LACK OF MERIT. [Respondents] are ordered to pay [GMC] attorney's fees and litigation expenses in the amount of forty-thousand pesos (P40,000.00)

SO ORDERED.[18]

The trial court ruled that GMC was able to sufficiently establish its claim of ownership of the subject lands, as opposed to respondents who were unable to present any proof of their claim of ownership over the subject lands. The trial court found that GMC's demolition of respondents' houses was justified based on Engr. Merilles' letter and under Article 429[19] of the Civil Code.[20]

Respondents appealed the RTC's Decision.

The Ruling of the CA

After the filing of the parties' respective pleadings on October 28, 2009, the CA rendered the assailed Decision, the dispositive portion of which reads:

WHEREFORE, finding reversible errors therefrom, Decision now on appeal is REVERSED and SET ASIDE. General Milling Corporation is ORDERED to pay plaintiffs-appellants the following: nominal damages in the amount of P100,000.00; moral damages in the amount of P300,000.00; exemplary damages in the amount of P300,000.00; and P20,000.00 as attorney's fees and P5,000.00 for litigation expenses.

The Division Clerk of Court is also DIRECTED to forward a copy of this decision to the Department of Environment and Natural Resources, Region X for proper action.

SO ORDERED.[21]

The CA found that it had no authority to rule on GMC's right on Lot No. 19053, a public land alleged to have been fraudulently titled. Such issue should properly be determined through reversion proceedings under Commonwealth Act (CA) No. 141 for cancellation of homestead or free patents, to be commenced by the Government, or through annulment of judgment or final orders and resolutions.[22]

However, as to Lot No. 21827, the Court ruled that GMC has no right over such land. The Court found that the tax declarations presented by GMC were issued merely in 1991, the year the demolition took place, hence, of dubious nature. The Court ruled that the right of petitioners as prior possessors are more superior to GMC.[23]

The Court also found illegal the demolition done by GMC. It ruled that the City Building official is not authorized to order demolition of any structure or building for their lack of building permit. The Court clarified that the City Building Official is only authorized, under Sections 214 and 215 of the National Building Code to cause demolition of dangerous buildings and structures. Respondents' properties were neither alleged nor proved to be of such nature.[24]

Hence, the instant petition.

In this petition, GMC laments the CA's ruling, arguing that the CA erred in awarding damages to respondents who did not even appear before the trial court. It points to the fact that only Norberto Constantino verified the complaint, purportedly as President of the Amihan Mindanao Farmers and Neighborhood Association. It alleges that there is no proof that such association exists, or that the 67 listed respondents are members of the association, except for an allegation in the verification, and that Constantino was authorized to file the case on their behalf. It claims that 48 of the listed respondents are not even residents of Tablon, Cagayan de Oro City and could not have possessed the subject lands since time immemorial.[25]

It also lamented the adverse ruling being based merely on the testimonies of two witnesses, which it claims are not credible to testify on respondents' claims. GMC claims that the aforesaid testimonies are insufficient to support the CA's grant of damages to all the respondents.[26]

It insists that the CA's finding that there were 200 houses demolished is not supported by the record. It argues that if there were indeed 200 houses, the number of complainants would be more or less 200, as opposed to 68 complainants.[27]

The Ruling of the Court

The petition has merit.

Basic is the rule that in civil cases, the party making allegations has the burden of proving them by a preponderance of evidence.[28] In this case, respondents substantially based their complaint on the petitioner's wrongful demolition of their houses. The pertinent parts of their complaint stated:

4. Plaintiffs and their predecessors-in-interests possessed and occupied the aforesaid alienable and disposable public lands since time immemorial and in the concept of owners thereof; in fact, they have constructed their residential houses thereon and resided therein continuously, uninterruptedly, openly, publicly, adversely, and notoriously until they were disturbed, harassed and molested and ejected by defendant, and most of their houses were eventually demolished by the defendant without due process and/or any lawful court order;

5. Defendant, which is a Cebu-based corporation cannot be legally awarded these alienable and disposable public lands because these public lands were already applied for and occupied by plaintiffs and their predecessors-in-interests long before the coming of defendant, which surreptitiously surveyed and applied for a miscellaneous lease application and a foreshore lease application therefore just recently as shown in the certification of the DENR regional office hereto attached and marked as Annex "C", forming an integral part hereof;

6. Defendant is guilty of fraud and deceit when it applied for the same public lands already applied for by plaintiffs and long possessed and occupied by plaintiffs and their predecessors-in-interests, and its alleged title thereto is spurious, fictitious and a nullity, because, being a corporation, it is prohibited by law and the constitution from acquiring public lands actually occupied by private individuals/claimants who ought to be given priority or preferential right in the disposition of said public lands under Act No. 496; besides, per record of the DENR, Annex "C", Lots nos. 19053 and 21827 are yet public lands as of February 5, 1991, thus, whatever title or patent issued to defendant prior to said date is a nullity as it is shrouded with fraud, deceit and misrepresentation;

7. Sometime on April 24, 1991, defendant, without any authority in law or order from the court, hired goons and workers protected by policemen of Cagayan de Oro City, and caused to be demolished the residential houses of most of plaintiffs, whom it forcibly drove out of the public lands long possessed and occupied by them in the concept of owners thereof, to their damage and prejudice in the amount of not less than Five Hundred Thousand (P500,000.00) pesos by way of actual damages; x x x[29]

From the foregoing allegations in the complaint, it is apparent that respondents anchored their claims against GMC on their possession and their predecessors-in-interest's possession of the subject lands. However, the record does not show that the respondents' possession had been established by evidence. Respondents merely presented two witnesses who stated that various houses on the subject lands were demolished on April 24, 1991. It was not even clarified from their testimonies whether any of the named respondents in the complaint were the homeowners of the structures purportedly demolished. The respondents did not even present pictures or documents to show the kind of houses destroyed, or what materials they were made from as to support their claims for damages.

Proof of ownership by each of the respondents of the houses demolished is necessary not only to give the court basis for the award of damages but also on account of the fact that there were 34 remaining houses on the subject land when the RTC conducted an ocular inspection.[30] To the mind of the Court, the respondents, in order to be entitled to damages, must, at the very least, establish that they are not the owners of the houses which remained on the subject property after the demolition. For it could very well be that some of the named respondents were the homeowners of the structures which were not even affected by the demolition. Further, this Court notes that this was consistently raised by the petitioner. In such cases, there would be no loss to speak of. Indeed, the rule is that in order to warrant the recovery of damages, there must be both a right of action for a legal wrong inflicted by the defendant, and damage resulting to the plaintiff therefrom.[31]

Neither did the testimonies of the respondents' witnesses support their claim for entitlement to relief. As aptly observed by the trial court:

x x x To prove their cause of action, plaintiffs presented only two (2) witnesses, in the persons of Primitivo Lucido and Cristina Bajao. Lucido's testimony contains contradictions on the main point he was testifying the demolition of the houses for while at first, he testified that his house is still existing, he later changed that testimony when asked by the court, that his house was one of those included in the demolition. While he and the other plaintiffs alleged that they had been occupying the area since time immemorial, not a single documentary evidence, either in the form of Tax Declaration or Tax Receipts, was presented to show even a semblance of legality of their occupation of the premises. Lucido's credibility is put in question because of his vacillating testimony since it is quite clear that his house is still existing. Much less can be said of the testimony of plaintiffs second witness who even admitted that she received payment from defendant and who, after she erected her second house in the area, lost, even on appeal, in the ejection case defendant tiled against her.[32] (Emphasis ours)

Nominal damages may be awarded to a plaintiff whose right has been violated or invaded by the defendant, for the purpose of vindicating or recognizing that right, and not for indemnifying the plaintiff for any loss suffered by him.[33] In this case, it has not been demonstrated that each of the respondents had a right which had been violated or invaded by defendant. Assuming, for the sake of argument, that GMC wrongfully demolished certain houses in the subject land, the same does not automatically warrant an award in favor of respondents.

Following the same line of argument, this Court likewise finds that the award of moral damages is unwarranted. Considering its personal nature, jurisprudence teaches that the claimant of moral damages must testify as to the mental anguish, serious anxiety, wounded feelings and other emotional and mental suffering he purportedly experienced.[34] Considering that the record is bereft of any such proof or testimony, the CA's award of moral damages, is thus, baseless and unwarranted.

The Court is also constrained to reverse the CA's grant of exemplary damages. Pursuant to Articles 2229[34] and 2234[35] of the Civil Code, exemplary damages may be awarded only in addition to moral, temperate, liquidated, or compensatory damages. Since respondents are not entitled to either moral, temperate, liquidated, or compensatory damages, then their claim for exemplary damages is bereft of merit.

Lastly, in the absence of any of the circumstances under Article 2208[36] of the Civil Code where attorney's fees may be awarded, the same cannot be granted to respondents.

WHEREFORE, the petition is hereby GRANTED. The Decision of the Court of Appeals dated October 28, 2009 in CA-G.R. CV No. 65091 is hereby REVERSED and SET ASIDE. A new judgment is hereby rendered dismissing respondents' complaint.

SO ORDERED.

Bersamin,[*] (Acting Chairperson), Del Castillo, Jardeleza, and Gesmundo,**] JJ., concur.

[*] Designated Acting Chairperson per Special Order No. 2606 dated October 10, 2018.

[**] Designated Additional Member per Special Order No. 2607 dated October 10, 2018.

[1] Rollo, pp. 3-27.

[2] Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Romulo V. Borja and Danton Q. Bueser, id. at 33-52.

[3] Penned by Acting Presiding Judge Admiral P. Labis, id. at 82-96.

[4] Id. at 35.

[5] Id at 37.

[6] Id. at 71.

[7] Id.

[8] Id. at 38.

[9] Id.

[10] Id. at 156-164.

[11] Id. at 158-159.

[12] AN ACT TO PROVIDE FOR A COMPREHENSIVE AND CONTINUING URBAN DEVELOPMENT AND HOUSING PROGRAM, ESTABLISH THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES.

[13] Id. at 159-161.

[14] Id. at 161.

[15] Id. at 40.

[16] Id.

[17] Id. at 41.

[18] Id. at 96.

[19] Article 429. The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

[20] Id. at 95-96.

[21] Id. at 52.

[22] Id. at 45.

[23] Id. at 46-47.

[24] Id. at 49.

[25] Id. at 13-14.

[26] Id. at 15.

[27] Id. at 16.

[28] Sps. Ramos v. Obispo, et al., 705 Phil. 221, 229 (2013).

[29] Rollo, p. 158-160.

[30] Id. at 38.

[31] Spouses Latonio, et al. v. Mcgeorge Food Industries Inc., et al., G.R. 206184, December 6, 2017.

[32] Rollo, pp. 91-92.

[33] Libcap Marketing Corp., et al. v. Baquial, 737 Phil. 349, 361 (2014).

[34] Mahinay v. Atty. Velasquez, Jr., 464 Phil. 146, 149 (2004).

[34] Article 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

[35] Article 2234. While the amount of the exemplary damages need not be proved, the plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded. x x x

[36] Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except: (1) When exemplary damages are awarded; (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest; (3) In criminal cases of malicious prosecution against the plaintiff; (4) In case of a clearly unfounded civil action or proceeding against the plaintiff; (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiffs plainly valid, just and demandable claim; (6) In actions for legal support; (7) In actions for the recovery of wages of household helpers, laborers and skilled workers; (8) In actions for indemnity under workmen's compensation and employer's liability laws; (9) In a separate civil action to recover civil liability arising from a crime; (10) When at least double judicial costs are awarded; (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

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