DEPARTMENT OF EDUCATION, REPRESENTED BY ITS REGIONAL DIRECTOR TERESITA DOMALANTA, VS. MARIANO TULIAO, PETITIONER, RESPONDENT.

G.R. No. 205664. June 09, 2014

Ponente: MENDOZA, J.

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MENDOZA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court filed by the Department of Education (DepEd) assails the January 31, 2013 Decision[1] of the Court of Appeals (CA) in GR. SP No. 123450 which dismissed DepEd's petition for review.

The Factual Antecedents:

On October 8, 2002, Mariano Tuliao (Tuliao) filed an action for recovery of possession and removal of structure with damages against the Department of Education (DepEd) with the Municipal Trial Court in Cities of Tuguegarao City (MTCC). He alleged that he was the registered owner of the subject parcel of land and that a portion of the said propety was allowed by his predecessors-in-interest to be used by the Atulayan Elementary School (AES) as an access road for the schoolchildren in going to and from the school. In March 2000, upon discovering that a structure was being constructed on the land, he demanded that the DepED cease and desist and vacate the property. The respondent, however, refused. Tuliao likewise demanded payment for reasonable rent, but his demand was also ignored.

In its defense, the DepEd denied the material allegations of the complaint and averred that it did not state a cause of action. Even if there was, the same was already barred by prescription and/or laches. Its occupation of the subject land was adverse, peaceful, continuous, and in the concept of an owner for more than fifty (50) years. It also alleged that it did not receive a notice to cease and desist or notice to vacate. As owner of the school site, it could not be compelled to pay rent or its reasonable value.

On January 26, 2010, the MTCC rendered its decision, ruling that Tuliao was the registered owner of the subject property and, thus, had a right of action against the holder and possessor of the said property. Further, it found that respondent’s possession of the subject property was merely tolerated by Tuliao. For said reason, his right to recover it was never barred by laches.

As to the structures, the MTCC stated that it could not allow the immediate removal thereof in view of the provisions of Article 448[2] of the New Civil Code and directed Tuliao to exercise his options under said article. Pertinent portions of the MTCC decision, including the fallo reads:

> Plaintiff’s prayer that the structures built on his lot be removed immediately cannot be allowed in view of the provision of Article 448.
>
> WHEREFORE, premises considered, judgment is hereby rendered by:

1. Declaring the plaintiff to be the lawful possessor of the lot in suit;

2. Directing the plaintiff to exercise his option under the law (Article 448, Civil Code) whether to appropriate the structures built on the lot in suit as his own by paying to the defendant the amount of the expenses spent for the structures or to oblige the defendant to pay the price of the land, and said option must be exercised and relayed to this court formally within 30 days from receipt of this decision and a copy of such notice must be furnished to the defendant.

- If in case the plaintiff exercises the option to appropriate the structures built on the lot in suit, the defendant is hereby directed to submit to this court the amount of the expenses spent for the structures within 15 days from receipt of the notice of the plaintiff of his desired option.

- If the plaintiff decides to oblige the defendant to pay the price of the land, the current market value of the land including its improvements as determined by the City Assessor's Office shall be the basis for the price thereof.

- In case the plaintiff exercises the option to oblige the defendant to pay the price of the land but the latter rejects such purchase because the value of the land is considerably more than that of the structures, the parties shall agree upon the terms of a forced lease, and give the court a formal written notice of such agreement and its provisos.

- If no formal agreement shall be entered into within a reasonable period, the court shall fix the terms of the forced lease.

3. Directing the defendant to pay the plaintiff the amount of five hundred pesos (P500.00) as reasonable compensation for the occupancy of the encroached property from the time the complaint was filed until such time the possession of the property is delivered to the plaintiff subject to the reimbursement of the aforesaid expenses in favor of the defendant or until such time the payment of the purchase price of the lot be made by the defendant in favor of the plaintiff in case the latter opts for the compulsory sale of the same;

4. Directing the defendant to pay the plaintiff the amount of P20,000.00 as attorney's fees and to pay the costs of the suit.

So Ordered.[3]

On appeal to the RTC, aside from the issue of inaction, the DepEd argued that Tuliao failed to sufficiently and competently prove the identity of the property – the exact location, area and boundaries. The DepEd further claimed that the material allegations of the complaint established one of accion reivindicatoria, and not accion publiciana, because Tuliao raised the issue of ownership and made it the anchor of his claim for juridical possession.

Acting thereon, the RTC dismissed the appeal and affirmed the MTCC decision. It stated that "[i]f a party in accion publiciana alleges that he owns the property in question, it is not ex sequitur that the action is a reinvindicatory one," and that a claimant could assert ownership as basis of his claim of possession.[4] The RTC also wrote that Tuliao was able to present evidence establishing a definite and unmistakable identification of the land and its ownership over the subject property. Moreover, the DepEd's possession was with the acquiescence of Tuliao's predecessors-in-interest, thus, the defense of laches was found weak.[5]

Interestingly, despite having affirmed the MTCC decision, the RTC opined that the case was impressed with public interest[6] and it was the paramount interest of the pupils who would be prejudiced by the finality and execution of the appealed decision.[7] The RTC strongly suggested that the DepEd, or if unable, the City Government of Tuguegarao City, be requested to pay Tuliao the just compensation of the land in question the

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amount of which to be determined by a panel of three commissioners appointed by the court and whose determination was to be approved by the said court.[8]

Aggrieved, the DepEd elevated the case to the CA via a petition for review under Rule 42. Finding no merit, the CA affirmed the RTC decision. It stated that the DepEd's reliance on the case of Bote vs. San Pedro Cineplex Properties Corporation[9] in arguing that Tuliao's certificate of title alone was inadequate to hand over possession of an unidentified parcel of land was misplaced. In Bote, both parties asserted ownership and possession of the land and presented their respective titles as evidence thereof. Hence, it was ruled therein that geodetic survey was necessary to determine whose title actually covered the disputed property.[10]

In this case, however, only Tuliao presented a certificate of title as well as tax declaration and real property tax receipts for the years 2003-2005.[11] The pieces of evidence Tuliao presented resolved the issue of who had the better right of possession and dispensed with the need for the testimony of an expert witness.[12]

Hence, the present petition.

> ISSUES: I.
>
> WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING THE REGIONAL TRIAL COURT AND HOLDING THAT THERE IS A SUFFICIENT DESCRIPTION OF THE LAND IN DISPUTE.
>
> II.
> WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING THE REGIONAL TRIAL COURT AND HOLDING THAT PETITIONER'S POSSESSION WAS ONLY DUE TO THE ACQUIESCENCE OR TOLERANCE OF HEREIN RESPONDENT.
>
> III.
> WHETHER THE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THAT RESPONDENT'S CLAIM IS BARRED BY LACHES DUE TO THE UNINTERRUPTED POSSESSION OF ATULAYAN ELEMENTARY SCHOOL FOR AT LEAST THIRTY- TWO (32) YEARS.[13]

Firstly, the DepEd has argued that Tuliao failed to discharge the burden of proving ownership over the disputed property. It asserts that presentation of a certificate of title does not automatically entitle the claimant to possession; that he has to first prove, by competent and reliable evidence, that the land he is claiming falls within his title; that the allegations and declarations of a party with a certificate of title are inadequate; and that where a claimant asserts ownership over a disputed property, it is essential that the boundaries of his title be correlated with the area claimed as this might be a case of an owner mistaking another's property as one's own.

Secondly, the DepEd avers that its witness, Caridad Soriano, who was a retired teacher of AES and who had taught at the said school for more than 30 years, testified that its possession of the subject land was open, continuous, exclusive, notorious, and in the concept of an owner since 1970. AES has delineated its possession by fencing its campus. Thus, whatever is within this fence is part of AES.[14]

Thirdly, the DepEd declares that Tuliao has lost his right to recover by his inaction for thirty two (32) years.[15]

After a scrutiny of the records, the Court is not swayed by DepEd's arguments.

It has been consistently held that the Court is not a trier of facts. Moreover, the factual findings of the trial court, when affirmed by the CA, are generally binding on this Court.[16] Subject to certain exceptions, the Court will not review, analyze and weigh all over again evidence already considered in the proceedings below.

From the records, it appears that there is no necessity to disturb the factual findings and conclusions of law by the

CA. Time and again, it has been ruled that he who alleges the affirmative of the issue has the burden of proof.[17] Upon the plaintiff in a civil case, the burden of proof never parts. Once the plaintiff makes out a prima facie case in his favor in the course of the trial, however, the duty or the burden of evidence shifts to defendant to controvert plaintiff’s prima facie case, otherwise, a verdict must be returned in favor of plaintiff.[18]

Here, Tuliao, as the registered owner, filed a complaint for recovery of possession and removal of structure. To support his claim, he presented not only tax declarations and tax receipts, but also a certificate of title. The Court agrees with the CA that the said pieces of evidence were sufficient to resolve the issue of who had the better right of possession. That being the case, the burden was shifted to the DepEd to prove otherwise. Unfortunately, the DepEd only presented testimonial evidence and nothing more to prove its defense and refute Tuliao’s claim. Its lone witness was all that the DepEd had to prove its right of possession. As between a certificate of title, which is an incontrovertible proof of ownership,[19] accompanied with a tax declaration and a tax receipt on one hand, and a testimony of a lone witness who is a retired teacher on the other, the former prevails in establishing who has a better right of possession over the property, following the rule that testimonial evidence cannot prevail over documentary evidence.[20]

As regards the DepEd 's defense of laches, it has no merit either. It avers that its possession of the subject land was open, continuous, exclusive, adverse, notorious and in the concept of an owner for at least thirty-two (32) years already at the time Tuliao filed the complaint. It must be noted, however, that Tuliao's claim that the DepEd's possession of a portion of his land to be used as a passageway for the students was mere tolerance was not refuted. Thus, the same is deemed admitted. This means that the DepEd's possession was not truly adverse.

The Court once ruled that mere material possession of the land vvas not adverse as against the owner and was insufficient to vest title, unless such possession was accompanied by the intent to possess as an owner.[21] Accordingly, the DepEd 's possession can only be considered as adverse from the time the gymnasium was being constructed in 1999 on the subject portion of Tuliao's property. In March 2000, Tuliao discovered the construction and demanded that the DepEd cease and desist from continuing the same. When DepEd refused, Tuliao filed a complaint for recovery of possession of the subject lot in 2002. Thus, only two (2) years had elapsed from the time the DepEd resistedflliao 's claims. Clearly, he did not sleep on his rights. There was no prolonged inaction that barred him from prosecuting his claims.

At any rate, the MTCC was fair when it stated that it could not order the immediately removal of the structures and directed Tuliao to exercise his option under Article 448.

If that would not be feasible or practical for DepEd, its remedy is to file an action for expropriation.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Villarama, Jr.,[*] and Leonen, JJ., concur.

June 23, 2014

N O T I C E OF J U D G M E N T

Sirs/Mesdames:

Please take notice that on ___June 9, 2014___ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on June 23, 2014 at 2:00 p.m.

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Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

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[*] Designated Acting Member in view of the vacancy in the Third Division. per Special Order No. 1691. dated May 22. 2014.

[1] Penned by Associate Justice Ramon A. Cruz. with Associate Justices Noel G. Tijam and Romeo F. Barza, concurring.

[2] Art. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

[3] Rollo, pp. 55-56.

[4] Rollo, p. 49.

[5] Id.

[6] Id. at 51.

[7] Id.

[8] Id.

[9] 611 Phil. 525 (2009).

[10] Rollo, p. 36.

[11] Id.

[12] Id.

[13] Id. at 15.

[14] Id. at 18.

[15] Id. at 21.

[16] Republic of the Philippines v. Heirs of Spouses Pedro Bautista and Valentina Malabanan, G.R. No. 181218, January 28, 2013, 689 SCRA 349, 362.

[17] Adriano v. Tanco, G..R. No. 168164, July 5, 2010, 623 SCRA 218, 230.

[18] Dantis v. Maghinang, G.R. No. 191696, April 10, 2013, 695 SCRA 599, 609, citing Jison v. Court of Appeals, 350 Phil. 138 (1998).

[19] Sampaco v. Lantud, G.R. No. 163551, July 18, 2011, 654 SCRA 36, 47.

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[20] Jarantilla v. Jarantilla, G.R. No. 154486, December 1, 2010, 636 SCRA 299, 317.

[21] Bogo-Medellin Milling Co., Inc. v. Courts of Appeals, 455 Phil. 185, 300 (2003).

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