

HEIRS OF JOHNNY AOAS, REPRESENTED BY BETTY PUCAY, PETITIONERS, VS. JULIET AS-IL, RESPONDENT.

G.R. No. 219558. October 19, 2016

Ponente: MENDOZA, J.

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MENDOZA, J.:

In this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, petitioners Heirs of Johnny Aoas (Heirs of Aoas), represented by Betty Pucay, question the September 17, 2014 Decision[2] and June 8, 2015 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 117020, which reversed the October 6, 2010 Resolution[4] of the Regional Trial Court of La Trinidad, Benguet, Branch 63 (RTC), in Civil Case No. 06-CV-2275.

In reversing the said resolution, the CA reinstated the August 31, 2010 RTC Decision[5] which affirmed in toto the August 9, 2006 Decision[6] of the Municipal Trial Court of Itogon, Benguet (MFC), in a forcible entry case, docketed as Civil Case No. 446, filed by respondent Juliet As-il (As-il) against the Heirs of Johnny Aoas. The MTC decision ordered the Heirs of Aoas or their representative and all persons acting under them to vacate and turn over peacefully the actual and material possession of a 42 square meter lot located in Tuding, Itogon, Benguet, covered by Transfer Certificate of Title (TCT) No. T-57645 to respondent As-il.

The Antecedent

As-il filed a complaint for forcible entry and damages against the Heirs of Aoas before the MTC, claiming absolute ownership and possessory rights over the 42 square meter portion of a parcel of land covered by TCT No. T-57645. She alleged that since time immemorial, she, by her predecessors and successors-in-interest, had been in actual, open, physical, and notorious possession of the subject property; that sometime in January 2005, she discovered that the Heirs of Aoas, by stealth and strategy, initiated the preparatory digging, clearing and construction of a house and enclosing the subject land, thus, depriving and dispossessing her of the same; and that when confronted, they asserted ownership of the same property. From the foregoing, As-il asked the MTC to order the Heirs of Aoas to vacate the subject property and that compensation be given to her as well as damages and attorney's fees.

In their Answer, the Heirs of Aoas contended that the area As-il claimed was their property, it being part of a land registered in their names under TCT No. T-32507; that they had been in continuous, public and adverse possession and occupation of it; that they have erected a residential house and undertook activities such as fencing, rip-rapping and other improvements done openly and publicly on the said property; that it was only after completion of the residential house when As-il asserted her claim over the property; and that in the belief of being the true owners, they refused As-il's demands to turn over the property.

At the MTC Level

During trial, the MTC, with the concurrence of both parties, ordered the conduct of a relocation survey over the

property. A Survey Commission was agreed to be formed and upon completion of its tasks, a report was issued which, however, failed to address the question on ownership. It merely confirmed that the properties overlapped each other. In other words, conflict in boundaries was acknowledged.

In its August 9, 2006 Decision, the MTC ruled that a portion of the land claimed by the Heirs of Aoas encroached a part of the land registered under As-il's name. It found that As-il had prior physical possession over the subject property, which could not be defeated by the subsequent possession of the Heirs of Aoas. Thus:

WHEREFORE, in view of all the foregoing, Judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

a) Ordering the defendants, their representative and all persons acting under them to vacate and to turn over peacefully the actual and material possession of the 42 square meter lot indicated (PORTION of LOT 4 (ALLEY) occupied by the HRS AOAS, REP. BY PUCAY AREA-42 sq.m.) in the Joint Relocation Survey/Sketch Plan prepared by the Survey Commission and marked as Exh. "D" for the plaintiff and Exh. "4" for the defendants which is part and parcel of the land of the plaintiff covered by Transfer Certificate of Title No. T-57645;

b) [t]o remove any and all of the improvements found within the 42 square meters within sixty (60) days from the finality of the judgment;

c) to pay by way of compensation for the reasonable use and occupation of the said 42 square meters fixed at a reasonable amount of P1,000.00 a month from the commencement of the action until the same shall have been fully paid;

d) to pay by way of attorney's fees in the amount of P5,000; and;

e) to pay the costs

SO ORDERED.[7]

Aggrieved, the Heirs of Aoas appealed before the RTC.

RTC Ruling

In its August 31, 2010 Decision, the RTC initially affirmed the MTC decision. It reiterated that as per the report of the Survey Commission, a portion of the property owned by the Heirs of Aoas encroached the property of As-il. The dispositive portion reads:

<blockquote>WHEREFORE, in view of the foregoing, the instant appeal is hereby DISMISSED for lack of merit. And the Decision appealed from is hereby AFFIRMED in toto.</blockquote>

<blockquote></blockquote>

<blockquote>SO ORDERED.[8]</blockquote>

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<blockquote>

Acting on petitioners' motion for reconsideration, however, the RTC reversed itself. Thus, in its October 6, 2010 Resolution,[9] the RTC dismissed the complaint for forcible entry stating that had it earlier considered the Tax Declaration of Real Property No. 007-02522 in the names of Heirs of Aoas, its conclusions and that of the MTC would have been different.

It opined that the said tax declaration, which was formally offered as Exhibit "3," showed that the Heirs of Aoas had already been in possession of the subject property even prior to the year 2000, negating As-il's claim that she

was deprived of her prior possession. The RTC observed that while the Heirs of Aoas submitted a position paper together with the documentary evidence and affidavits of witnesses, As-il did not. Thus, it posited that As-il's complaint was unsupported by evidence, which was insufficient to debunk the documentary evidence of the Heirs of Aoas, specifically the tax declaration supporting the latter's right to possess the disputed portion of the lot. Thus:

WHEREFORE, in view of the foregoing, the Decision rendered by this Court dated August 31, 2010 is hereby RECONSIDERED and SET ASIDE. In its stead, another judgment is hereby rendered REVERSING the Decision appealed from. The Complaint filed by the appellee is hereby DISMISSED, for lack of merit.

SO ORDERED.[10]

Unsatisfied, As-il appealed before the CA.

The CA Ruling

In its September 17, 2014 Decision,[11] the CA held that points of law, theories, issues and arguments, including the tax assessments, not brought to the attention of the trial court could not be and ought not to be considered by a reviewing court, as those could not be raised for the first time on appeal. Considering that the tax declaration used by the RTC as basis to reverse its earlier decision and that of the MTC was not presented during the trial proper, the appellate court upheld the right of As-il to evict the Heirs of Aoas, as earlier adjudged by the MTC and the RTC in the latter's earlier decision. Thus, it disposed:

WHEREFORE, the Petition for Review is GRANTED. The assailed Resolution is SET ASIDE. The Decision of August 31, 2010 of the Regional Trial Court is REINSTATED.[12]

Aggrieved, the Heirs of Aoas moved for reconsideration but their motion was denied by the CA in its June 8, 2015 Resolution.[13]

Hence, this petition raising this

SOLE ISSUE

WHETHER THE HONORABLE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN SETTING ASIDE THE RESOLUTION OF THE REGIONAL TRIAL COURT AND THAT THE PETITIONERS HAVE COMMITTED FORCIBLE ENTRY.[14]

The Heirs of Aoas argue that the issue as to who has a better right over the disputed property with an area of 42 square meters could not be resolved in an ejectment suit considering that they had built their structures within the confines of their property covered by TCT No. T-32507; that no stealth or strategy was employed in erecting their residential house over the area because they possessed and occupied the property within the metes and bound of their land as described in their certificate of title; that even if the tax declaration were to be disregarded, other documents still prove their prior possession of the land even prior to year 2000, citing official tax receipts of real property payments for 1994 up to 2005; that these tax receipts supported the conclusion that they were in possession of the property even before the year 2000 as well as the fact that their house was built sometime in 1997; that the tax declaration merely confirmed their possession; and that even without the tax assessment, their actual right to possess the property should be affirmed as it has been substantiated already during trial.

In her Comment,[15] dated December 17, 2015, As-il manifested that she was adopting, by way of reference and incorporation, the CA decision as her Comment.

In their Reply,[16] dated April 11, 2016, the Heirs of Aoas manifested that they would just adopt the arguments/discussion in the petition they had filed earlier.

The Court's Ruling

The petition is meritorious.

The Heirs of Aoas insist that the CA should have not found them liable for forcible entry.

The Court, however, finds that the real issue here is whether an ejectment case under Rule 70 was a proper remedy to resolve this controversy.

From a deeper analysis of the records and attendant circumstances, it is clear that this case deals not with the right to possess the property. Instead, the main discussions in the lower courts and the CA went around the boundary dispute between the contending parties over the 42 square meter parcel of land. This is apparent from the fact that the properties being claimed by both parties are covered by separate certificates of title and overlapped each other. Stated differently, both parties lay claim to that property on the basis of their certificates of title, both of which cover the contested land. The MTC and RTC findings confirm this.

In its decision, the MTC stated as follows:

The ground verification survey conducted by Survey Commission shows that the theory of the plaintiff is true and correct. A portion of the titled land of the plaintiff on the East is invaded by the titled land of the defendants on the West by 42 square meters. The shaded portion ALLEY 3.00. wide portion of Lot 4-PSU-174581-AMD. is the encroachment or overlapping. The defendants therefore have encroached or invaded or intruded into the 42 square meters area which is clearly within the metes and bounds of the titled land of the plaintiff. Whatever claim of possession insisted by the defendants must yield to the possession of the plaintiff. The reason is but a conclusion of logic and common sense.

The RTC on the other hand similarly stated the following:

In asserting their ownership over the disputed lot, the plaintiff-appellee claimed that the same formed part of the parcel of land covered by Transfer Certificate of Title No. T-57645 in her name.

On the other hand, the defendants-appellants also maintained that the said disputed portion is situated within the parcel of land covered by Transfer of Certificate of Title No. T-32507 in the names of their late parents Johnny and Jocelyn Aoas,

xxxx

And as per said Report of the Survey Commission xxx apart from three (3) others who are separately occupying a portion thereof, an extent of 42 sq. ms., is being occupied by the defendants which is a part and parcel of land covered by Transfer Certificate of Title No. T-57645 in the name of the plaintiff. Such findings of the Survey Commission readily resolved in the affirmative, the issue agreed upon by the parties in the pre-trial as "whether or not the defendants have unlawfully encroached a portion of the lot of the plaintiff.

Settled is the rule that a boundary dispute, as in this case, can only be resolved in the context of an accion reivindicatoria, and not in an ejectment case.[17] In *Manalang v. Bacani*, the Court held that boundary dispute cannot be resolved in ejectment proceedings as it involves different issues, to wit: The boundary dispute is not about possession, but encroachment, that is, whether the property claimed by the defendant formed part of the plaintiffs property. A boundary dispute cannot be settled summarily under Rule 70 of the Rules of Court, the proceedings under which are limited to unlawful detainer and forcible entry. In unlawful detainer, the defendant unlawfully withholds the possession of the premises upon the expiration or termination of his right to hold such possession under any contract, express or implied. The defendant's possession was lawful at the beginning, becoming unlawful only because of the expiration or termination of his right of possession. In forcible entry, the possession of the defendant is illegal from the very beginning, and the issue centers on which between the

plaintiff and the defendant had the prior possession de facto.[18] [Emphasis supplied]

Given the foregoing, the CA erred in affirming the ejectment of the Heirs of Aoas considering that the issue raised cannot be properly ventilated in a forcible entry case as the main contention of the parties deal with encroachment. In other words, the MTC in passing upon the case, acted without authority as the case was beyond the ambit of a summary proceeding.

All other issues raised need not be discussed as the remedy availed of by the parties was improper in the first place. To afford the parties the constitutional right to due process, this case should be dismissed without prejudice to the proper filing of a case in the proper forum.

WHEREFORE, the petition is GRANTED. The September 17, 2014 Decision and June 8, 2015 Resolution of the Court of Appeals in CA-G.R. SP No. 117020 are hereby REVERSED and SET ASIDE, without prejudice.

SO ORDERED.

Carpio, (Chairperson), Brion, and Del Castillo, JJ., concur.
Leonen, J., on official leave.

[1] Rollo, pp. 4-13.

[2] Id. at 16-27. Penned by Associate Justice Michael P. Elbinias, with Associate Justices Isaias P. Dicdican and Victoria Isabel A. Paredes, concurring.

[3] Id. at 29-30. Penned by Associate Justice Isabel A. Paredes, with Associate Justices Hakim S. Abdulwahid and Isaias Dicdican. concurring.

[4] Id. at 31-34. Penned by Judge Benigno M. Galacgac.

[5] Id. at 35-41, Penned by Judge Benigno M. Galacgac.

[6] Id. at 42-47.

[7] Id. at 47.

[8] Id. at 41.

[9] Id. at 31-34. Penned by Judge Benigno M. Galacgac.

[10] Id. at 34.

[11] Id. at 16-27. Penned by Associate Justice Michael P. Elbinias, with Associate Justices Isaias P. Dicdican and Victoria Isabel A. Paredes. concurring.

[12] Id. at 27.

[13] Id. at 29-30. Penned by Associate Justice Isabel A. Paredes, with Associate Justices Hakim S. Abdulwahid and Isaias Dicdican, concurring.

[14] Id. at 8.

[15] Id. at 46-47.

[16] Id. at 51-52.

[17] Manalang v. Bacani, G.R. No. 156995, January 12, 2015, 745 SCRA 27.

[18] Id. at 37-38.</blockquote

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