

MARCELINO MEJIA, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND THE SPOUSES JUAN P. VELASCO AND CARMEN F. VELASCO, RESPONDENTS.

G.R. No. 67229, November 29, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for review on certiorari of the decision[*] of the Court of Appeals, dated 24 November 1983, in CA-G.R. No. 64771-R, which affirmed the decision[**] of the Court of First Instance of Pangasinan. Third Judicial District, Branch I, in Civil Case No. 15448, and the resolution of the appellate court, dated 5 April 1984, denying the motion for reconsideration of its decision.

An action for quieting of title was filed before the Court of First Instance of Pangasinan by the spouses Juan P. Velasco and Carmen F. Velasco (herein private respondents) against Marcelino Mejia (herein petitioner). The case was docketed as Civil Case No. 15448. After trial, the court a quo rendered a decision in favor of the plaintiffs in the case, the dispositive part of which reads as follows:

"WHEREFORE, the court hereby renders judgment in favor of plaintiffs, as follows:

1)

Granting plaintiff's petition for quieting of title, and declaring plaintiffs the true and lawful owners of the property in question, with an area of 483 square meters, more or less, located at Barrio San Isidro Sur, Binmaley, Pangasinan;

2)

Ordering defendant to immediately vacate the premises of said property which are presently in his occupation and possession, and restoring the ownership and possession thereof to plaintiffs;

3)

Ordering defendant to pay to plaintiffs the amount of P2,130.00 as actual damages (consisting of plaintiffs' unearned income from the fishpond portion of said property from February, 1975 to the present, or for a period of two (2) years and eight (8) months at the rate of P800.00 annually), P1,500.00 as attorney's fees, P500.00 as litigation expenses, plus costs; and

4)

Dismissing defendant's counterclaim, for lack of merit."[1]

Not satisfied with the decision, petitioner (defendant below) appealed to the Court of Appeals. The decision was affirmed. Petitioner's motion for reconsideration of the appellate court's decision was likewise denied. Hence, the instant recourse.

It is the contention of petitioner that the appellate court committed grave and reversible error in affirming the trial court's award to the private respondents Juan and Carmen Velasco of the entire parcel of land consisting of 1,449 square meters, when in fact they were claiming only a 483 square meter portion thereof.[2] As to the award of damages, petitioner contends that private respondents failed to adduce satisfactory evidence to show that they are entitled to the same.[3]

The decision of the court a quo, as affirmed by the appellate court, is sufficiently clear. It declares private respondents owners of the property in question, with an area of 483 square meters, more or less, located at Barrio San Isidro Sur, Binmaley, Pangasinan.[4] Nowhere in the decision can one gather that private respondents were declared owners of more than what was prayed for in their complaint. In arriving at its decision, the trial court properly found thus -

"From the foregoing, it would appear that out of the total area of 1,449 square meters (14 ares and 49 centares) of land acquired by Eugenia de los Santos from her parents on January 12, 1938, by way of "Donation Inter Vivos" (Exh. H), she sold the 1/3 portion of said property, with an area of 483 square meters, to her brother Rafael de los Santos, on August 22, 1944 (Exh. C) who in turn sold the same to herein plaintiff Juan P. Velasco (with right to repurchase) on September 20, 1944 (Exh. A); Velasco consolidated ownership on June 21, 1951 (Exh. B), as Rafael de los Santos failed to repurchase; and that she (Eugenia) sold the remaining 2/3 portion of said property, with an area of 953 square meters (it should be 966 sq. m.) to her sister Carmen de los Santos, on July 15, 1972 (Exh. 2), who in turn sold the same to herein defendant Marcelino S. Mejia (her son) on January 9, 1975 (Exh. 1).

Very clearly, therefore, the 483 square meters (1/3 portion) acquired by plaintiff Juan P. Velasco from Rafael de los Santos on September 20, 1944 (Exh. A), is separate and distinct from the 953 square meters (2/3 portion) acquired by defendant Marcelino S. Mejia from his mother Carmen de los Santos on January 9, 1975 (Exh. 1).

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Note also that on July 15, 1972, Eugenia de los Santos sold to Carmen de los Santos only the 2/3 remaining portion (953 sq. m.) of her property (Originally 1,449 sq. m.), precisely because on August 22, 1944 (or 28 years before that) she (Eugenia) had already sold the 1/3 portion (483 sq. m.) of her aforesaid property to Rafael de los Santos, predecessor in interest of plaintiff Juan P. Velasco."[5]

Contrary to the claim of petitioner, the Court finds the award of damages to private respondents as proper and reasonable. As found by the trial court, the fishpond portion of the land in question did not produce income for the private respondents because of the acts of petitioner who, in his answer, admitted having possession of the same. The court a quo awarded private respondents actual damages in the amount of P2,130.00 for unearned income from the fishpond portion of said property, from February 1975 to the time of the promulgation of its decision in November 1978, or for a period of two (2) years and eight (8) months at the rate of P800.00 annually.

Considering also the attitude of petitioner, there being no showing that he has vacated the property in question and restored the ownership and possession thereof to private respondents, and that this appeal interposed by him is clearly dilatory, the Court deems it just and proper that the petitioner be ordered to pay the private respondents the amount of P800.00 annually from February 1975 up to the time petitioner actually vacates the property in question and restores it to private respondents, with interests thereon at the legal rate.

WHEREFORE, the petition is DENIED. With the modification above-indicated, the assailed appellate court decision is hereby AFFIRMED. With costs against petitioner.

SO ORDERED.

Melencio-Herrera, (Chairperson), Paras, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Justice Jorge R. Caguia and concurred in by Presiding Justice B.S. De La Fuente and Justices Mariano A. Zosa and Florelana Castro-Bartolome; Rollo, pp. 20-25

[**] Penned by Judge W. C. Fortun

[1] Record on Appeal, p. 16

[2] Petition, p. 6

[3] Petition, p. 7

[4] Record on Appeal, p. 16

[5] Record on Appeal, pp. 13-14

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