

MIGUEL SEMIRA, PETITIONER, VS. COURT OF APPEALS AND BUENAVENTURA AN, RESPONDENTS.*G.R. No. 76031. March 02, 1994*

Ponente: BELLOSILLO, J.

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Juana Gutierrez owned a parcel of land, later designated as Lot 4221, situated in Sto. Niño, Taysan, Batangas which she sold to private respondent Buenaventura An for P850.00 by means of a "Kasulatan ng Bilihan ng Lupa" executed on 4 January 1961.[1] Aside from the estimated area of 822.5 square meters appearing in the deed of sale, the following boundaries of the lot are also stated: on the north, by Taysan--Lobo-Sto. Niño-Pinagbayanan and Sto. Niño-Dagatan Road (Junction or Intersection road); on the east, by Sto. Niño-Pinagbayanan Road and Juana Gutierrez; on the south, by Sto. Niño School site; and, on the west, by Sto. Niño-Dagatan Road.

Thereafter, private respondent entered the premises observing thereby the boundaries of the property and not the area given.[2]

Subsequently, he acquired two (2) other parcels of land, Lot 4215 with an area of 8,606-square meters located on the east of Lot 4221 from the spouses Pascual Hornilla and Gliceria Ilao on 30 June 1964, and another lot with an area of 11,000-square meters from Santiago Asi. Pascual Hornilla is the son of Juana Gutierrez.

On 18 October 1972, private respondent sold Lot 4221 to his nephew, Cipriano Ramirez, and spouse by means of another "Kasulatan ng Bilihan ng Lupa" for P2,500.00,[3] where the lot was described with the same area and boundaries mentioned in the 4 January 1961 "Kasulatan ng Bilihan ng Lupa" with the exception of the boundary on the east; which was changed from "Juana Gutierrez" to "Buenaventura An" to reflect the acquisition by private respondent of the adjoining Lot 4215.

Like his uncle before him, Cipriano Ramirez occupied the lot by observing the boundaries stated in the document of sale. Subsequently, he applied for a new tax declaration to replace the one in the name of his uncle but was denied in view of an existing mortgage executed by Buenaventura An in favor of the Taysan Rural Bank, which was only settled in 1979.

On 12 March 1979, Cipriano Ramirez sold the lot to petitioner Miguel Semira for P20,000.00. However, the area stated in the "Kasulatan ng Bilihan ng Lupa"[4] was 2,200 square meters and not 822.5 appearing in the previous document. As delimited by its boundaries, the lot is actually much bigger than 822.5 square meters. This was confirmed by the Taysan Cadastral Mapping Survey conducted in 1974 where it is definitely stated that the area of Lot 4221 is 2,200 square meters; hence, the reason for the change.

On 17 March 1979, Miguel Semira entered the very same premises previously occupied by Ramirez and began the construction of a new rice-mill. However, on 18 April 1979, a complaint for forcible entry was filed against him by private respondent in the Municipal Circuit Trial Court of Taysan-Lobo.[5] The latter claimed that the area of Lot 4221 was 822.5 square meters only and that the excess of 1,377 square meters forcibly occupied by

petitioner formed part of Lot 4215 which he acquired from the Hornillas in 1964.

Petitioner admits having entered the disputed portion on 17 March 1979, but denies having illegally done so. In his answer, petitioner claims ownership over the property by invoking the 1979 deed of sale in his favor by Cipriano Ramirez.

Meanwhile, during the pendency of the case, private respondent applied for and was issued Original Certificate of Title No. P-12694 over the lots he purchased from the Hornillas and that from Santiago Asi with a combined area of 19,606 square meters. However, the title was issued for 2 hectares, 8 ares and 33 centares or 20,833 square meters. No explanation was given for the difference.

The case was initially dismissed for lack of jurisdiction.[6] The municipal court of Taysan-Lobo ruled that since the issue of prior physical possession could not be resolved without first deciding on the ownership, dismissal was proper since forcible entry cases involve the sole issue of prior physical possession. However, upon motion, and in view of the passage of B.P. Blg. 129, which took effect 14 August 1981, providing that "[m]etropolitan trial courts, municipal trial courts, and municipal circuit trial courts, without distinction, may try cases of forcible entry and detainer even if the question of ownership is raised in the pleadings and possession could not be resolved without deciding the ownership,"[7] the trial court modified its earlier resolution and adjudged petitioner the rightful and lawful owner and possessor of the area in question and cannot therefore be ejected therefrom.[8]

Private respondent appealed to the Regional Trial Court which reversed the Municipal Circuit Trial Court, ruling that it was not necessary to delve on the issue of ownership since the question of prior physical possession could be resolved independently, and that since petitioner admitted having possessed the disputed area on 12 March 1979 while the possession of private respondent began way back in 1964, the latter clearly had prior possession.[9] Since petitioner did not specifically deny the allegation of forcible deprivation of property in his Answer, the averment in that regard was deemed admitted under Sec. 1, Rule 9, of the Rules of Court.[10] As a final word, the RTC held that "no matter how righteous defendant's claim of ownership over the property may be, he has not the right to take the law into his own hands by forcibly depriving plaintiff of his prior actual possession of the property." [11]

Petitioner appealed to the Court of Appeals, but without success.[12] In its Decision of 22 April 1986, respondent appellate court dismissed the petition for review and affirmed the RTC decision in toto.[13]

Petitioner contends that the Court of Appeals erred: (1) in upholding his ejectment from the disputed area despite the absence of clear and indubitable proof that private respondent had prior physical possession and that he was deprived of the same by force, intimidation, strategy or stealth; and, (2) in not holding that the question of ownership is so necessarily involved that it would be impossible to decide the question of bare possession without first settling that of ownership.[14]

We agree with the position of petitioner and sustain the Municipal Circuit Trial Court in holding that in the case at bench the issue of possession cannot be decided independently of the question of ownership. Hence, we reverse the Court of Appeals as well as the Regional Trial Court.

In his complaint in the MCTC, private respondent claims constructive possession of the disputed portion since 30 June 1964 when he bought the same as part of Lot 4215 of the Hornilla spouses. Likewise, petitioner bases his occupancy of the disputed portion on the 1979 sale of Lot 4221 in his favor, which he contends is separate and distinct from Lot 4215 of private respondent. Clearly, the question of who has prior possession hinges on the question of who the real owner of the disputed portion is. And the latter, in turn, depends on whether such portion is part of Lot 4215 of private respondent or of Lot 4221 of petitioner.

It is not disputed that Lot 4221 of petitioner was once owned by private respondent; that the latter sold the same to his nephew, Cipriano Ramirez, in 1972 for the lump sum of P2,500.00; that the "Kasulatan ng Bilihan ng Lupa" incorporated both the estimated area and the definite boundaries of the land; and, that private respondent's nephew in turn sold the lot to petitioner in 1979 with the very same boundaries mentioned in the deed of sale executed in his favor by his uncle Buenaventura An.

Petitioner claims that he owns the entire 2,200 square meters since it is the size of Lot 4221 following its established boundaries. On the other hand, private respondent insists that he only sold 822.5 square meters, hence, his nephew could not have transferred a bigger area to petitioner.

We sustain petitioner as did the Municipal Circuit Trial Court. We have repeatedly ruled that where land is sold for a lump sum and not so much per unit of measure or number, the boundaries of the land stated in the contract determine the effects and scope of the sale, not the area thereof.[15] Hence, the vendors are obligated to deliver all the land included within the boundaries, regardless of whether the real area should be greater or smaller than that recited in the deed. This is particularly true where the area is described as "humigit kumulang," that is, more or less.[16] These conclusions are drawn from Art. 1542 of the Civil Code which states -

In the sale of real estate, made for a lump sum and not at the rate of a certain sum for a unit of measure or number, there shall be no increase or decrease of the price, although there be a greater or less area or number than that stated in the contract.

The same rule shall be applied when two or more immovables are sold for a single price; but if, besides mentioning the boundaries, which is indispensable in every conveyance of real estate, its area or number should be designated in the contract, the vendor shall be bound to deliver all that is included within said boundaries, even when it exceeds the area or number specified in the contract; and, should he not be able to do so, he shall suffer a reduction in the price, in proportion to what is lacking in the area or number, unless the contract is rescinded because the vendee does not accede to the failure to deliver what has been stipulated.

Hence, when private respondent Buenaventura An sold Lot 4221 to his nephew Cipriano Ramirez by means of a "Kasulatan ng Bilihan ng Lupa" which incorporated both the area and the definite boundaries of the lot, the former transferred not merely the 822.5 square meters stated in their document of sale but the entire area circumscribed within its boundaries.

The fact that the area turned out to be 2,200 square meters, instead of only 822.5 square meters, is of no moment and does not entitle private respondent to the difference because the definite object sold was Lot 4221 in its entirety and not just any unit of measure or number.[17] That the sale resulted in a disadvantage to private respondent does not confer on him any cause of action against petitioner.[18]

Besides, we are hardly convinced that Buenaventura An entered into the sale unaware that Lot 4221 actually had a much bigger area than it purported to be. Even as early as the sale between him and his nephew, private respondent was already aware of the difference between the stated area of Lot 4221 and its actual size. His nephew Cipriano Ramirez testified, and private respondent did not dispute, that when asked why the area of Lot 4221 stated in their deed of sale was much smaller than the actual size, private respondent explained that it was to minimize taxes.[19] Private respondent likewise did not deny that his nephew merely transferred to petitioner the very same area which he himself had acquired and possessed in 1961 when he bought the same from Juana Gutierrez, the original owner of the lot.

Considering the foregoing, it is not difficult to sustain petitioner over private respondent when the latter failed even to prove prior possession in his favor. Absent such element, it cannot be said that he was forcibly deprived of the disputed portion. Hence, his action for forcible entry must fail.

It should be emphasized, however, that the case before us is merely an action for forcible entry and that the issue of ownership was decided for the sole purpose of resolving priority of possession. Hence, any pronouncement made affecting ownership of the disputed portion is to be regarded merely as provisional, hence, does not bar nor prejudice an action between the same parties involving title to the land.[20]

WHEREFORE, the Decision of the Intermediate Appellate Court (now Court of Appeals) dated 22 April 1986 affirming that of the Regional Trial Court of 13 January 1984 in toto is REVERSED and SET ASIDE and another one entered REINSTATING, AFFIRMING and REITERATING the Decision of 4 May 1983 of the Municipal Circuit Trial Court of Taysan-Lobo, Batangas, with costs against private respondent Buenaventura An.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] Exh. "I," Original Records, pp. 181-182.

[2] See Decision dated 4 May 1983 penned by Acting Municipal Circuit Trial Court Judge Francisco D. Sulit, p. 10; Original Records, p. 842.

[3] Exh. "C," Original Records, p. 184-A.

[4] Exh. "A," id., p. 938.

[5] Docketed as Civil Case No. 4-MCC-T.

[6] Decision dated 4 October 1982 penned by Acting Municipal Circuit Trial Judge Francisco D. Sulit; Rollo, pp. 52-62.

[7] Sec. 33, par. (2).

[8] Decision dated 4 May 1983, Original Records, pp. 842-854.

[9] Decision dated 13 January 1984 was penned by Judge Gerano V. Catalan, Regional Trial Court of Batangas, Branch VII, in Civil Case No. 2286; Original Records, pp. 892-903.

[10] Sec. 1. Allegations not specifically denied deemed admitted. - Material averments in the complaint, other than those as to the amount of damage, shall be deemed admitted when not specifically denied x x x

[11] Id., p. 10; Original Records, p. 901.

[12] Docketed as AC-G.R. SP No. 03876, *Semira v. Hon. Catalan, et al.*

[13] Penned by Associate Justice Alfredo M. Lazaro, concurred in by Associate Justices Juan A. Sison, Santiago M. Kapunan and Alfredo V. Cruz, Jr.; Rollo, pp. 124-131.

[14] Petition, p. 11; Rollo, p. 19.

[15] *Pacia v. Lagman*, 63 Phil. 361, 365 (1936), citing *Loyola v. Bartolome*, 39 Phil. 544; *Escudero v. Director of Lands*, 44 Phil. 83; *Government of the Philippine Islands v. Abaja*, 52 Phil. 261; *Beltran v. Reyes*, 55 Phil. 1004.

[16] *Sta. Ana v. Hernandez*, 125 Phil. 61, 68 (1966), citing *Goyena v. Tambunting*, 1 Phil. 490; *Teran v. Villanueva*, 56 Phil. 677; *Azarraga v. Gay*, 52 Phil. 599; *Mondragon v. Santos*, 87 Phil. 471.

[17] See *Ambrosio Padilla*, Civil Code Annotated, Vol. V, 7th ed. (1987), pp. 272-273.

[18] See *Mata v. Court of Appeals*, G. R. No. 87880, 7 April 1992, 207 SCRA 753, 759.

[19] TSN, 30 April 1980, p. 48; Original Records, p. 497.

[20] Sec. 7, Rule 70, Rules of Court; see *Mendoza v. Court of Appeals*, G. R. No. 81909, 5 September 1991, 201 SCRA 343, 354.

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