

JOSE REYNANTE, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, THE HON. VALENTIN CRUZ, AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF BULACAN, BRANCH VIII, AND THE HEIRS OF LEONCIO...*G.R. No. 95907. April 08, 1992*

Ponente: PARAS, J.

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This is a petition for review on certiorari which seeks the reversal of: a) decision* of the Court of Appeals dated February 28, 1990 in CA-G.R. No. 19171 entitled "JOSE REYNANTE versus HON. VALENTIN CRUZ, Judge, RTC of Malolos, Bulacan, and HEIRS OF LEONCIO AND DOLORES CARLOS, et al.", affirming the decision** of the Regional Trial Court of Malolos, Bulacan, Branch 8, Third Judicial Region which reversed the decision*** of the Municipal Trial Court of Meycauayan, Bulacan, Branch I, Third Judicial Region in Civil Case No. 1526 entitled "HEIRS OF LEONCIO CARLOS & DOLORES A. CARLOS and HEIRS OF GORGONIO A. CARLOS & CONCEPCION CARLOS versus JOSE REYNANTE: and b) the resolution denying the motion for reconsideration.

The facts as culled from the records of the case are as follows:

More than 50 years ago, petitioner Jose Reynante was taken as tenant by the late Don Cosme Carlos, owner and father-in-law of herein private respondents, over a fishpond located at Barrio Liputan, Meycauayan, Bulacan with an area of 188.711 square meters, more or less and covered by Transfer Certificate of Title No. 25618, Land Registry of Bulacan.

During the tenancy, petitioner Jose Reynante constructed a nipa hut where he and his family lived and took care of the nipa palms (sasahan) he had planted on lots 1 and 2 covering an area of 5.096 square meters and 6.011 square meters respectively. These lots are located between the fishpond covered by TCT No. 25618 and the Liputan (formerly Meycauayan) River. Petitioner harvested and sold said nipa palms without interference and prohibition from anybody. Neither did the late Don Cosme Carlos question his right to plant the nipa palms near the fishpond or to harvest and appropriate them as his own.

After the death of Don Cosme Carlos, his heirs (private respondents' predecessors-in-interest) entered into a written agreement denominated as "SINUMPAANG SALAYSAY NG PAGSASAULI NG KARAPATAN" dated November 29, 1984 with petitioner Jose Reynante whereby the latter for and in consideration of the sum of P200,000.00 turned over the fishpond he was tenanting to the heirs of Don Cosme Carlos and surrendered all his rights therein as Caretaker or "bantay-kasama at tagapamahala" (Rollo, p. 77).

Pursuant to the said written agreement, petitioner surrendered the fishpond and the two huts located therein to private respondents. Private respondents thereafter leased the said fishpond to one Carlos de la Cruz. Petitioner continued to live in the nipa hut constructed by him on lots 1 and 2 and to take care of the nipa palms he had

planted therein.

On February 17, 1988, private respondents formally demanded that the petitioner vacate said portion since according to them petitioner had already been indemnified for the surrender of his rights as tenant. Despite receipt thereof, petitioner refused and failed to relinquish possession of lots 1 and 2.

Hence, on April 22, 1988, private respondents filed a complaint for forcible entry with preliminary mandatory injunction against petitioner alleging that the latter by means of strategy and stealth, took over the physical, actual and material possession of lots 1 and 2 by residing in one of the kubos or huts bordering the Liputan River and cutting off and/or disposing of the sasa or nipa palms adjacent thereto.

On January 10, 1989, the trial court rendered its decision dismissing the complaint and finding that petitioner had been in prior possession of lots 1 and 2.

Private respondents appealed to the Regional Trial Court and on August 8, 1989 it rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, this Court renders judgment in favor of the plaintiffs and against defendant and hereby reverses the decision of the Court a quo. Accordingly, the defendant is ordered to restore possession of that piece of land particularly described and defined as Lots 1 & 2 of the land survey conducted by Geodetic Engineer Restituto Buan on March 2, 1983, together with the sasa or nipa palms planted thereon. No pronouncement as to attorney's fees. Each party shall bear their respective costs of the suit.

SO ORDERED." (Rollo, p. 55; Decision, p. 4).

From said decision, petitioner filed with the Court of Appeals a petition for review (Rollo, p. 30; Annex "A"). On February 28, 1990, the Court of Appeals rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, the decision of the court a quo, being consistent with law and jurisprudence, is hereby AFFIRMED in toto. The instant petition seeking to issue a restraining order is hereby denied.

SO ORDERED." (Rollo, p. 30; Decision, p. 3).

On November 5, 1990, the Court of Appeals denied the motion for reconsideration filed by petitioner (Rollo, p. 35; Annex "B").

Hence, this petition.

In its resolution dated May 6, 1991, the Second Division of this Court gave due course to the petition and required both parties to file their respective memoranda (Rollo, p. 93).

The main issues to be resolved in this case are: a) who between the petitioner and private respondents has prior physical possession of lots 1 and 2; and b) whether or not the disputed lots belong to private respondents as a result of accretion.

An action for forcible entry is merely a quieting process and actual title to the property is never determined. A party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his prior possession, if he has in his favor priority in time, he has the security that entitles him to remain on the property until he is lawfully ejected by a person having a better right by accion publiciana or accion reivindicatoria (*German Management & Services, Inc. v. Court of Appeals*, G.R. No. 76216, September 14, 1989, 177 SCRA 495, 498, 499). On the other hand, if a plaintiff cannot prove prior physical possession, he has no right of action for forcible entry and detainer even if he should be the owner of the property (*Lizo v. Carandang*, 73 Phil. 469 [1942]).

Hence, the Court of Appeals could not legally restore private respondents' possession over lots 1 and 2 simply because petitioner has clearly proven that he had prior possession over lots 1 and 2.

The evidence on record shows that petitioner was in possession of the questioned lots for more than 50 years. It is undisputed that he was the caretaker of the fishpond owned by the late Don Cosme Carlos for more than 50 years and that he constructed a nipa hut adjacent to the fishpond and planted nipa palms therein. This fact is bolstered by the "SINUMPAANG SALAYSAY" executed by Epifanio Lucero (Records, p. 66), Apolonio D. Morte (Records, p. 101) and Carling Dumalay (Records, p. 103), all of whom are disinterested parties with no motive to falsify that can be attributed to them, except their desire to tell the truth.

Moreover, an ocular inspection was conducted by the trial court dated December 2, 1988 which was attended by the parties and their respective counsels and the court observed the following:

"The Court viewed the location and the distance of the constructed nipa hut and the subject 'sasahan' which appears exists (sic) long ago, planted and stands (sic) adjacent to the fishpond and the dikes which serves (sic) as passage way of water river of lot 1 and lot 2. During the course of the hearing, both counsel observed a muniment of title embedded on the ground which is located at the inner side of the 'pilapil' separating the fishpond from the subject 'sasa' plant with a height of 20 to 25 feet from water level and during the ocular inspection it was judicially observed that the controversial premises is beyond the titled property of the plaintiffs but situated along the Liputan, Meycauayan River it being a part of the public domain." (Rollo, p. 51; Decision, p. 12).

On the other hand, private respondents based their claim of possession over lots 1 and 2 simply on the written agreement signed by petitioner whereby the latter surrendered his rights over the fishpond.

Evidently, the trial court did not err when it ruled that:

"An examination of the document signed by the defendant (Exhibit 'B'), shows that what was surrendered to the plaintiffs was the fishpond and not the 'sasahan' or the land on which he constructed his hut where he now lives. That is a completely different agreement in which a tenant would return a farm or fishpond to his landlord in return for the amount that the landlord would pay to him as a disturbance compensation. There is nothing that indicates that the tenant was giving other matters not mentioned in a document like Exhibit 'B'. Moreover, when the plaintiffs leased the fishpond to Mr. Carlos de la Cruz there was no mention that the lease included the hut constructed by the defendant and the nipa palms planted by him (Exhibit '1'), a circumstance that gives the impression that the nipa hut and the nipa palms were not included in the lease to Mr. de la Cruz, which may not belong to the plaintiffs." (Rollo, p. 49; Decision, p. 9).

With regard to the second issue, it must be noted that the disputed lots involved in this case are not included in Transfer Certificate of Title No. 25618 as per verification made by the Forest Management Bureau, Department of Environment and Natural Resources. That tract of land situated at Barrio Liputan, Meycauayan, Bulacan containing an area of 1.1107 hectares as described in the plan prepared and surveyed by Geodetic Engineer Restituto Buan for Jose Reynante falls within Alienable and Disposable Land (for fishpond development) under Project No. 15 per B.F.L.C. Map No. 3122 dated May 8, 1987 (Rollo, p. 31; Decision, p. 2).

The respondent Court of Appeals ruled that lots 1 and 2 were created by alluvial formation and hence the properly of private respondents pursuant to Article 457 of the New Civil Code, to wit:

"Art. 457. To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters."

Accretion benefits a riparian owner when the following requisites are present: (1) that the deposit be gradual and imperceptible; (2) that it resulted from the effects of the current of the water; and (c) that the land where accretion

takes place is adjacent to the bank of a river (Republic v. Court of Appeals, G.R. No. L-61647, October 12, 1984, 132 SCRA 514, cited in Agustin v. Intermediate Appellate Court, G.R. Nos. 66075-76, July 5, 1990, 187 SCRA 218).

Granting without conceding that lots 1 and 2 were created by alluvial formation and while it is true that accretions which the banks of rivers may gradually receive from the effect of the current become the property of the owner of the banks, such accretion to registered land does not preclude acquisition of the additional area by another person through prescription.

This Court ruled in the case of Ignacio Grande, et al. v. Hon. Court of Appeals, et al., G.R. No. L-17652, June 30, 1962, 115 Phil. 521 that:

"An accretion does not automatically become registered land just because the lot which receives such accretion is covered by a Torrens Title. Ownership of a piece of land is one thing; registration under the Torrens system of that ownership is another. Ownership over the accretion received by the land adjoining a river is governed by the Civil Code. Imprescriptibility of registered land is provided in the registration law. Registration under the Land Registration and Cadastral Act does not vest or give title to the land, but merely confirms and, thereafter, protects the title already possessed by the owner, making it imprescriptible by occupation of third parties. But to obtain this protection the land must be placed under the operation of the registration laws, wherein certain judicial procedures have been provided."

Assuming private respondents had acquired the alluvial deposit (the lot in question), by accretion, still their failure to register said accretion for a period of fifty (50) years subjected said accretion to acquisition through prescription by third persons.

It is undisputed that petitioner has been in possession of the subject lots for more than fifty (50) years and unless private respondents can show a better title over the subject lots, petitioner's possession over the property must be respected.

PREMISES CONSIDERED, the decision of the respondent Court of Appeals dated February 28, 1990 is REVERSED and SET ASIDE and the decision of the Municipal Trial Court of Meycauayan, Bulacan, Branch I, is hereby, REINSTATED.

SO ORDERED.

Melencio-Herrera, Acting C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

* Penned by Associate Justice Abelardo M. Dayrit and concurred in by Associate Justices Luis A. Javellana and Felipe B. Kalalo.

** Penned by Judge Valentin R. Cruz.

*** Penned by Judge Orlando C. Paguio.

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