

## FIRST DIVISION

[ G.R. NO. 166403, November 02, 2006 ]

**BENZON O. ALDEMITA, PETITIONER, VS. HEIRS OF MELQUIADES SILVA, REPRESENTED BY RAMON G. VILLORDON, JR., RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court questioning the Decision<sup>[1]</sup> dated November 22, 2004 promulgated by the Court of Appeals (CA) in CA-G.R. CV No. 72445, which affirmed *in toto* the Decision<sup>[2]</sup> dated August 20, 2001 of the Regional Trial Court (RTC), Branch 11, Cebu City, docketed as Civil Case No. CEB-23011.

This case originated from a Complaint for Quieting of Title filed with the RTC by the Heirs of Melquiades Silva, represented by Ramon G. Villordon, Jr., (respondents) on November 18, 1998 against the Heirs of Dionisia Vda. De Zabate (Heirs of Vda. De Zabate), represented by Emelia Deiparine and Benzon O. Aldemita (petitioner).

The antecedent facts of the case, as found by the RTC and upheld by the CA, are as follows:

On November 25, 1998, a verified complaint dated November 18, 1998 for Quieting of Title was filed by the [respondents] through counsel with the Regional Trial Court, Cebu City docketed therein as Civil Case No. CEB-23011 and was assigned through raffle to Branch 11 thereof.

On January 14, 1999, a verified Answer With Special And Affirmative Defenses, Counter-claim and Cross-claim dated January 13, 1999 was filed by [petitioner] Benzon O. Aldemita through counsel with the court a quo.

On April 22, 1999, an Urgent Motion To Declare Defendants Roger Deiparine and Josephine Deiparine In Default And A Motion To Set Case For Pre-Trial dated April 20, 1999 was filed by the petitioners through counsel after the above-named respondents were substituted for respondent Emilia Deiparine who died last September 15, 1998 per Order dated February 1, 1999, which motion was granted by the public respondent court per Order dated April 30, 1999 by declaring Roger Deiparine and Josephine Deiparine in default and setting the case for Pre-trial.

On August 12, 1999, a Pre-trial was conducted by the trial court wherein

the parties made the following stipulations of facts and/or admissions, to wit:

1) [Petitioner] Benzon O. Aldemita admitted that Lot 11330 of Pcs-945 located in Minglanilla, Cebu has been registered in the name of Melquiades Silva as shown by Transfer Certificate No. T-18993 of the Registry of Deeds for the Province of Cebu (Exhibit A) and has been covered by Tax Declaration No. 25845-R also in the name of Melquiades Silva (Exhibit B);

2) [Petitioner] Benzon O. Aldemita also admitted that the [respondents] in this case have been the ones in actual physical possession of Lot 11330 of Pcs-945 except a portion thereof with an area of 2,000 square meters which said [petitioner] is claiming to be possessed by him;

3) [Petitioner] Aldemita admitted, too, that a document denominated as "*Kalig-onan sa Palit*" (Exhibit C) which was purportedly executed on March 15, 1949 by Melquiades Silva in favor of Dionisia Vda. De Zabate involving the land in question is actually a forged document. However, [petitioner] contended that another document denominated as "*Kalig-onan sa Panagpalit nga Dayon*" (Exhibit 1) was executed by Melquiades Silva in favor of Dionisia Vda. De Zabate and that thereafter this was confirmed by Proferia Silva and Emeliana Zabate Paran in a Deed of Confirmation of Previous Deed of Sale executed on February 20, 1979 (Exhibit 2).

On October 25, 1999 per agreement of the parties, the trial court issued an order appointing the PNP Regional Crime Laboratory Office VII as commissioner of the court for the purpose of determining whether the purported signature of Melquiades Silva in Exhibit 1 and that of Porferia Silva in Exhibit 2 for the answering defendant Benzon O. Aldemita are really those of Melquiades Silva and Porferia Silva.

On February 10, 2000, a Questioned Document Report<sup>[3]</sup> No. 013-2000 by the Document Examiner Romeo Oliva Varona was submitted to the court.

On March 6, 2000 an Order of even date was issued by the court giving respondent Aldemita fifteen (15) days to submit his comment on the Questioned Document Report No. 013-2000 which he did by submitting to the court his Comment, etc. dated April 3, 2000.

On September 15, 2000, an order was issued by the trial court wherein it considered the Questioned Document Report 013-2000 as the findings of fact duly established in the case.

On January 23, 2001 per manifestation of the parties through their respective counsel that they would submit the case for decision without need of trial especially that the findings embodied in the commissioner's report have already been considered as the findings of facts in this case.

Nonetheless, the trial court gives the parties fifteen (15) days within which to file their respective memorandum if they so desire and thereafter the case was considered as submitted for decision.<sup>[4]</sup>

On February 8, 2001, petitioner Aldemita filed a Position Paper with the RTC. On March 24, 2001, Atty. Manuel S. Paradela, then counsel of petitioner Aldemita, filed a Motion To Withdraw As Counsel. Immediately thereafter, or on April 2, 2001, the new counsel for petitioner Aldemita, Atty. Rodolfo A. Ugang, Sr., entered his appearance. On April 6, 2001, petitioner Aldemita, through his newly retained counsel, filed a Motion to Dismiss for lack of cause of action. The Motion averred in main that the respondents should first be declared as heirs of Melquiades Silva in a special proceeding before they can be considered as real parties-in-interest to institute the action in this case. In an Order dated April 20, 2001, the RTC denied the Motion, thus:

Filed with the Court by the defendant Benzon O. Aldemita is a motion to dismiss this case on the ground of plaintiffs' lack of cause of action.

The Court finds the motion to be not impressed with merit. As it may not be amiss to recall, this case was already considered as submitted to the Court for decision way back on February 8, 2001 pursuant to the order issued in this case on January 23, 2001. The aforementioned motion to dismiss was filed only on April 6, 2001. Apparently, the said motion was not filed within the proper time, *i.e.*, within the time for filing the answer to the complaint as provided Section 1 of Rule 16 of the 1997 Rules on Civil Procedure. A motion to dismiss cannot be filed anytime except if the grounds therefor are lack of jurisdiction over the subject matter, pendency of another action between the same parties for the same cause and bar by prior judgment or statute of limitations. The motion filed in this case is not on account of any of the said exceptional three grounds.

IN VIEW THEREOF, the Court hereby denies the aforementioned motion to dismiss.

SO ORDERED.<sup>[5]</sup>

The petitioner, again through his new counsel, filed a Motion for Reconsideration on June 4, 2001. In an Order dated August 17, 2001, the RTC denied the motion. This Order reads:

Anent the motion filed by the defendant Benzon O. Aldemita for reconsideration of the order issued in this case on April 20, 2001, the Court finds it to be devoid of merit. There is no gainsaying the fact that the late Melquiades Silva was the registered owner of Lot No. 1130 of Pcs-945, Talisay-Minglanilla estate, as shown by TCT No. T-18993 of the Registry of Deeds for the Province of Cebu. Thus, if there are claims which are prejudicial to the title to the said land, thereby casting a cloud of doubt on its authenticity and indefeasibility, the heirs of Melquiades Silva are certainly the real parties in interest who could institute an action for quieting of title. It is therefore surprising why the defendant Benzon O. Aldemita is now contending very much belatedly that the plaintiffs are not real parties in interest in the case at bench. The invoking by the said defendant-movant of the ruling in *Heirs of Guido and*

*Isabel Yaptinchay v. Del Rosario*, 304 SCRA 18, is misplaced. **Here in this case, the heirs of Melquiades Silva are significantly suing through the administrator of the estate of their decedent. In other words, there is already an on-going special proceeding wherein the declaration of heirship of the plaintiffs is being sought. So, the defendant Benzon O. Aldemita should not insist that the plaintiffs should first be declared as heirs of Melquiades Silva before they can be considered as real parties in interest to institute the action in this case. Things have already been placed in their proper perspectives.** (Emphasis supplied)

WHEREFORE, in view of the foregoing premises, the Court hereby denies the aforementioned motion for reconsideration.

SO ORDERED.<sup>[6]</sup>

On August 20, 2001, the RTC rendered its Decision, the dispositive portion of which states:

WHEREFORE, in view of all the foregoing premises, judgment is hereby rendered by the Court in this case:

- a. Declaring the [respondents] as the rightful and absolute owners of Lot No. 11330 of Pcs-945 (Talisay-Minglanilla Estate) located in Vito, Minglanilla, Cebu;
- b. Declaring as null and void and without force and effect the documents denominated as "Kalig-onan Sa Palit" purportedly executed by Melquiades Silva on March 15, 1949 in favor of Dionisia Vda. de Zabate (Exhibit C), "Kalig-onan sa Panagpalit nga Dayon" which was purportedly executed by Melquiades de Silva on March 15, 1949 in favor of Dionisia Vda. de Zabate (Exhibit 1), Deed of Confirmation of Previous Deed of Sale which was purportedly executed by Porferia de Silva on February 20, 1979 in favor Emiliana Zabate Paran (Exhibit 2) and the Deed of Absolute Sale executed by Emilia Deiparine on April 26, 1996 in favor of [petitioner] Benzon O. Aldemita (Exhibit 3);
- c. Ordering the [Heirs of Vda. De Zabate and petitioner] to respect and not disturb the [respondents'] title to and ownership of Lot No. 11330 of Pcs-945; and
- d. Ordering [petitioner] Benzon O. Aldemita to vacate the premises of Lot No. 11330 of Pcs-945.

IT IS SO ORDERED.<sup>[7]</sup>

The RTC held that the respondents, as heirs of Melquiades Silva who appears to be the registered owner under the TCT, have a cause of action under Article 476<sup>[8]</sup> of the Civil Code; that the petitioner expressly admitted in his Answer to the petition and also during pre-trial that the "*Kalig-onan sa Palit*"<sup>[9]</sup> is "a true and real forgery;" that the "*Kalig-onan sa Panagpalit nga Dayon*"<sup>[10]</sup> and the Deed of Confirmation of

Previous Deed of Sale<sup>[11]</sup> were likewise found by the PNP Crime Laboratory Office to be forged documents; that, in view of these reasons, the said documents cannot be the sources of rights; that the Deed of Absolute Sale dated April 26, 1996 executed by Emilia Deiparine in favor of petitioner Aldemita has no leg to stand on since, as the saying goes, the spring cannot rise higher than its source; and that the respondents, as admitted by petitioner Aldemita, have been the ones in actual possession of the land in question.

Petitioner Aldemita appealed to the CA claiming that the RTC erred:

I.

In declaring the [respondents] as the rightful and absolute owners of Lot No. 11330 of Pcs-945 (Talisay-Minglanilla Estate) located in Vito, Minglanilla, Cebu, Philippines;

II.

In declaring as null and void and without force and effect the documents denominated as "Kalig-onan sa Panag-palit nga Dayon" (Deed of Absolute Sale), which was purportedly executed by Melquiades Silva on March 15, 1949 in favor of Dionisia Vda. de Zabate (Exhibit 1), Deed of Confirmation of Previous Deed of Sale which was purportedly executed by Porferia Silva and Emiliana Zabate Paran on February 20, 1979 (Exhibit 2) and the Deed of Absolute Sale Executed by Emilia Deiparine on April 26, 1996 in favor of [petitioner] Benzon O. Aldemita (Exhibit 3);

III.

In ordering [petitioner] Aldemita to respect and not disturb the [respondents'] title to and ownership of Lot No. 11330 of Pcs-945;

IV.

In ordering [petitioner] Aldemita to vacate the premises of Lot No. 11330 of Pcs-945.<sup>[12]</sup>

On November 22, 2004, the CA promulgated its Decision affirming the Decision of the RTC *in toto*. The dispositive portion of the CA Decision reads:

WHEREFORE, the foregoing premises considered, this appeal is DISMISSED. The appealed Decision dated August 20, 2001 by the Regional Trial Court, Branch 11, Cebu City in Civil Case No. CEB-23011 is affirmed *in toto*. Costs against the [petitioner].<sup>[13]</sup>

The CA held that the question of whether the respondents are real parties-in-interest was raised for the first time on appeal considering that this issue was **never raised in the RTC before the case was submitted for decision** and, hence, it cannot be resolved without offending basic rules of fair play, justice and due process; that the only issues raised before the RTC were confined to (a) whether the ancient documents are valid, and (b) whether the various transactions are valid; that although a Motion to Dismiss was filed invoking lack of cause of action, this