

FIRST DIVISION

[G.R. NO.147812, April 06, 2005]

**LEONARDO R. OCAMPO, PETITIONER, VS. LEONORA TIRONA,
RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] to annul the Decision^[2] dated 29 November 2000 of the Court of Appeals ("appellate court") in CA-G.R. SP No. 41686, and its Resolution dated 16 April 2001 denying the motion for reconsideration. The appellate court set aside the Decision^[3] dated 27 June 1996 of Branch 110 of the Regional Trial Court of Pasay City ("RTC") in Civil Case No. 96-0209. The RTC affirmed the Decision^[4] dated 29 December 1995 of Branch 47 of the Metropolitan Trial Court of Pasay City ("MTC") in Civil Case No. 754-95 ordering respondent Leonora Tirona ("Tirona") to vacate and surrender possession of the property under litigation to petitioner Leonardo R. Ocampo ("Ocampo"). The MTC also ordered Tirona to pay Ocampo rentals in arrears, attorney's fees, and costs of suit.

Antecedent Facts

Ocampo alleged that he is the owner of a parcel of land ("subject land") described in Transfer Certificate of Title ("TCT") No. 134359, with an approximate area of 500 square meters, located at Alvarez Street, Pasay City. Ocampo bought the subject land from Rosauro Breton, heir of the subject land's registered owner Alipio Breton Cruz. Possession and administration of the subject land are claimed to be already in Ocampo's management even though the TCT is not yet in his name. Tirona, on the other hand, is a lessee occupying a portion of the subject land.^[5] The MTC established the following facts:

According to [Ocampo], upon acquisition of ownership of the subject premises, a formal written notice was given to [Tirona] which was received by the latter on 9 March 1995, copy of the said formal written agreement marked as Annex "A" and likewise copy of the registry return receipt showing that [Tirona] received Annex "A" was marked as Annex "A-1". In recognition of [Ocampo's] right of ownership over the subject premises, [Tirona] paid some monthly rentals due, however, on July 5, 1995, [Ocampo] received a letter from Callejo Law Office of Room 513 Borja Bldg., 645 Sta. Cruz, Manila stating among others, that, in view of the fact that the subject premises was declared under area for priority development, [Tirona] is invoking her right of first refusal and in connection thereto [Tirona] will temporarily stop paying her monthly rentals until and unless the National Housing Authority have processed

the pertinent papers as regards the amount due to [Ocampo] by reason of the implementation of the above law, a copy of the said letter marked as Annex "B" of the Complaint. In reply to Annex "B", [Ocampo] sent a letter dated 17 July 1995 addressed to the said Callejo Law Office, copy furnished [Tirona]. A copy of the said reply of [Ocampo] marked as Annex "C" of the Complaint, a copy of the Registry Return Receipt showing that [Tirona] received said Annex "C" on 20 July 1995 marked as Annex "C-1" of the Complaint, while as the original copy which was sent to Callejo Law Office was also received by said office. On 7 August 1995, [Ocampo] wrote a letter to [Tirona] demanding upon [Tirona] to pay the rentals in arrears for the months of April, May, June, July and August at the rate of P1,200 a month and to vacate the premises, copy of the said letter dated 7 August 1995 marked as Annex "D" of the Complaint and the signature at the bottom portion of Annex "D" clearly shows that the same was received by [Tirona] on 8 August 1995. Despite receipt of said letter, [Tirona] failed and refused and still fails and refuses to heed [Ocampo's] demands.^[6]

On 11 September 1995, Ocampo filed a complaint docketed as Civil Case No. 754-95 for unlawful detainer and damages against Tirona before the MTC.

Tirona filed her answer on 27 September 1995. Tirona asserted that Doña Lourdes Rodriguez Yaneza actually owns the subject land. The allegations in the answer state thus:

1. That the Assignor [one Edison A. Hindap, Sr.] is the General Overseer and Attorney-in-Fact of DOÑA LOURDES RODRIGUEZ YANEZA, Heir/Owner of TITULO DE PROPIEDAD DE TERENOS of 1891, Royal Degree 01-4 Protocol, the real owner of a parcel of land allegedly claimed by [Ocampo].
2. That the Title of [Ocampo] was overlapped [sic] the Original Land Title of the Assignor.
3. That [Tirona], hereby recognized by the Assignor as co-owner by possession and hereby cede, transfer and assign the said parcel of land in [Tirona's] favor.
4. That [Tirona] hereby denied [sic] and discontinued [sic] all the obligations imposed by [Ocampo], for the simple reason, the property in question is not owned by [Ocampo], but rather owned by the Assignor, as proof of evidence herein Assignor issued a Certification for Occupancy and Assignment in favor of [Tirona] herein attached with [sic], and the other evidence shall be presented upon the proper hearing on the merits of this case.^[7]

Ocampo filed a motion to strike out the answer filed and a motion for judgment on 10 October 1995. Ocampo claimed that the answer was not verified; therefore, it was as if no answer was filed.

On 12 October 1995, Tirona filed a motion with leave to amend defendant's answer.^[8] She alleged that she filed her answer without the assistance of a lawyer due to

fear that she might be unable to file the required pleading on time. In her amended answer, Tirona maintained that Ocampo is not the owner of the subject land. She stated that the certificate of title to the subject land is not even registered under Ocampo's name. Tirona also alleged that she has a right of first refusal in case of sale of the land, pursuant to Presidential Decree ("PD") Nos. 1517,^[9] 1893^[10] and 1968.^[11] The area where the subject land is located was certified as an area under priority development.^[12] Tirona asked for attorney's fees and moral and exemplary damages.

In the spirit of substantial justice, the MTC granted Tirona's motion to amend her answer on 20 October 1995. On 15 November 1995, the MTC directed Ocampo and Tirona to submit their respective position papers and other evidence after the termination of the pre-trial conference.

The issue considered by the MTC for resolution was whether Ocampo may eject Tirona because of non-payment of rent and because of the termination of Tirona's right to possess and occupy the subject land.

The MTC's Ruling

The MTC ruled that Tirona does not have any reason to suspend payment of rents until after PD No. 1517, in relation to PD Nos. 1893 and 1968, is implemented in her favor. Tirona's non-payment of rents rendered her occupation of the subject land illegal. As owner of the subject land, Ocampo is entitled to its use and enjoyment, as well as to recover its possession from any person unlawfully withholding it.

The dispositive part of the MTC's decision reads:

WHEREFORE, judgment is hereby rendered in favor of [Ocampo] and against [Tirona]:

1. Ordering [Tirona] and all other persons claiming possession under her to vacate and surrender possession to [Ocampo] the premises known as, parcel of land located at 2132 Alvarez St., Pasay City, covered by Transfer Certificate of Title No. 134359 of the Register of Deeds of Pasay City;
2. Ordering [Tirona] to pay the rentals in arrears covering the period from April 1995 until such time [Tirona] shall have finally vacated the subject premises at the rate of P1,200 a month, with interest at a legal rate;
3. Ordering [Tirona] to pay the sum of P5,000 for and as attorney's fees; and
4. Ordering [Tirona] to pay the cost of the suit.

SO ORDERED.^[13]

Ocampo filed a motion for execution pending appeal on 24 January 1996, while Tirona filed a notice of appeal on 25 January 1996. The MTC directed its clerk of court to transmit the records of the case, as well as the motion for execution

pending appeal, through an order issued on 29 January 1996. The RTC issued an order on 26 February 1996 ordering both parties to file their respective memoranda.

On 4 March 1996, Maria Lourdes Breton-Mendiola, who claimed to be the owner of the subject land, filed a motion with leave to file intervention before the RTC.

The RTC's Ruling

In an order dated 11 March 1996, the RTC issued a writ of execution pending appeal for the enforcement of the MTC's decision. The RTC stated that although Tirona perfected her appeal on time, the record showed that she failed to pay the required supersedeas bond as well as deposit the current rentals as mandated by Section 8, Rule 70 of the 1964 Rules of Court. In a separate order issued on the same date, the RTC denied Maria Lourdes Breton-Mendiola's motion with leave to file intervention. The RTC stated that granting the motion to intervene would violate the 1964 Rules of Court and jurisprudence.

Ocampo filed his memorandum on 21 March 1996.^[14] He emphasized that Tirona's assertion of a "preferential right of first refusal" is a recognition of the sale by Rosauo Breton of the subject land to him. Moreover, Tirona is not qualified to claim this preferential right because she is no longer a legitimate tenant. The payment of Tirona's monthly rent was already in arrears at the time Ocampo filed the complaint against Tirona.

On 25 March 1996, Tirona filed a manifestation which stated that she paid both the supersedeas bond and rent on the subject land. The RTC considered Tirona's manifestation as a motion for reconsideration of its previous order issuing a writ of execution pending appeal. In its order dated 15 April 1996, the RTC recalled its 11 March 1996 order and cancelled the writ of execution.

Tirona filed her memorandum also on 25 March 1996. For the first time, Tirona disclosed that Alipio Breton is the registered owner of the subject land and that he is her landlord since 1962. When Alipio Breton died in 1975, his children, Rosauo Breton and Maria Lourdes Breton-Mendiola, inherited the subject land. Tirona claims she has never stopped paying her rent to Maria Lourdes Breton-Mendiola. Tirona also stated that Rosauo Breton could not transfer ownership to the subject land to Ocampo. On 14 July 1978, Rosauo Breton executed a deed of conveyance and waiver in favor of his sister, Maria Lourdes Breton-Mendiola. Rosauo Breton executed another deed of conveyance and waiver in favor of Maria Lourdes Breton-Mendiola on 9 March 1995. Thus, Tirona claims, Ocampo cannot legally acquire title from Rosauo Breton in view of the waivers. Maria Lourdes Breton-Mendiola is Tirona's lessor, and is the only person who can validly file an ejectment suit against Tirona.^[15]

After quoting the findings of the MTC, the RTC held thus:

This Court after a careful review of the complete record of this case particularly the evidences, applicable laws and jurisprudence relied upon by the [MTC] in finding for [Ocampo] and declaring that [Tirona] can be lawfully ejected from the subject premises, concurs with the findings thereof. There is therefore nothing in the record which would warrant the Court to disturb the findings of fact and law and the conclusions reached

by the [MTC].

This Court finds the decision of the lower court fully justified in granting the reliefs to [Ocampo].

WHEREFORE, judgment is hereby rendered AFFIRMING IN TOTO the decision of the [MTC] with costs against [Tirona].

SO ORDERED.^[16]

In its petition before the appellate court, Tirona stated that the RTC erred in the following grounds:

1. ORDERING THE EJECTMENT OF [TIRONA] IN VIOLATION OF SECTION 2 OF PD [NO.] 2016.^[17]
2. NOT RULING THAT [TIRONA] HAS A BETTER RIGHT OF POSSESSION OVER THE PROPERTY IN QUESTION.
3. RULING THAT THE SUCCESSOR-IN-INTEREST OF AN UNDIVIDED IDEAL ONE-HALF PORTION, [OCAMPO] MAY DEPRIVE THE OTHER CO-OWNER OF THE ADMINISTRATION OF ONE-HALF PORTION BY EJECTING HER LESSEE, [TIRONA].^[18]

The appellate court stated that the principal issue for its resolution is whether Ocampo, being the buyer of the subject land which is not yet partitioned among the heirs, can validly evict Tirona.^[19]

The Appellate Court's Ruling

The appellate court considered partition of the estate of Alipio Breton as a prerequisite to Ocampo's action. The appellate court ruled that "[u]ntil the partition of the estate is ordered by the Regional Trial Court of Pasay City in the pending partition proceedings and the share of each co-heir is determined by metes and bounds, [Ocampo] cannot rightfully claim that what he bought is part of the property occupied by [Tirona]."^[20] The dispositive part of the appellate court's decision reads thus:

WHEREFORE, the decision of the respondent court is hereby SET ASIDE and judgment is hereby rendered dismissing the complaint of the private respondent in the court below.

SO ORDERED.^[21]

Hence, the instant petition.

The Issues

Ocampo assigned three errors to the appellate court. Ocampo stated that the appellate court erred in: