

## TWELFTH DIVISION

[ CA-G.R. CV No. 96761, May 21, 2014 ]

**ESTATE OF SPOUSES MARIANO L. MARTINEZ AND MARIA G. BALBAGO, REPRESENTED BY JACOBO B. MARTINEZ, PLAINTIFFS-APPELLEES, VS. NATALIO JAVIER, CONSTANTE ASUNCION, AND COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE (CENRO), DEFENDANTS-APPELLANTS.**

### D E C I S I O N

**PAREDES, J.:**

#### THE CASE

THIS IS ON THE APPEAL filed by defendant-appellant Natalio Javier (*defendant-appellant*) assailing the Decision<sup>[1]</sup> dated September 29, 2010 of the Regional Trial Court (RTC), Branch 11, Balayan, Batangas, in Civil Case No. 3372 for annulment of title, accion reivindicatoria and damages filed by plaintiff-appellee Estate of Spouses Mariano L. Martinez and Maria G. Balbago, represented by Jacobo B. Martinez (*plaintiff-appellee*).

#### THE ANTECEDENTS

On July 24, 1997, plaintiff-appellee filed a complaint<sup>[2]</sup> for annulment of title, accion reivindicatoria and damages against defendant-appellant, Constante Asuncion (*Asuncion*) and the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR).

Only defendant-appellant filed his answer with counterclaim<sup>[3]</sup> since defendant Asuncion could not be located at his given address; thus, summons, together with the complaint and its annexes, was unserved so far as he was concerned<sup>[4]</sup>.

After Atty. Geminiano Aquino, counsel for plaintiff-appellee, manifested in open court that he was filing an amended complaint, the RTC gave<sup>[5]</sup> plaintiff-appellee ten days within which to file the same. On April 5, 1999, in view of the discovery of other documents pertinent to the cause of action such as other Torrens titles covering the entire land of defendant-appellant and the records of the Unlawful Detainer case filed by the deceased Mariano L. Martinez (*Mariano*) against defendant-appellant, plaintiff-appellee filed a Motion<sup>[6]</sup> for leave to admit Amended Complaint.

In the Amended Complaint<sup>[7]</sup>, plaintiff-appellee averred that: it is the absolute owner of three parcels of land with areas covering one thousand ten (1,010), one hundred twenty-nine (129), and two hundred eighty-seven (287) square meters, more or less, located along Dam Ballelos Street, Balayan, Batangas, evidenced by Transfer Certificate of Title (TCT) Nos. T-12892,<sup>[8]</sup> T-14552,<sup>[9]</sup> and T-24586<sup>[10]</sup>,

respectively; TCT No. T-12892 was acquired from and registered in the name of deceased Mariano, married to Maria G. Balbago, on June 29, 1966, while TCT Nos. T-14562 and T-24586 are both registered in the name of deceased Mariano L. Martinez, married to Maria G. Balbago, on December 20, 1966; sometime in 1968 or thereabout, defendant-appellant occupied a portion of plaintiff-appellee's land and constructed a residential house where he and his family lives; during the lifetime of Mariano, he demanded that defendant-appellant vacate the land and remove his house, but the latter refused; sometime in 1968, Mariano filed an Unlawful Detainer case against defendant-appellant and other occupants; judgment<sup>[11]</sup> was rendered against defendant-appellant; after the death of Mariano, his estate, through judicial administrator Jacobo B. Martinez (*Jacobo*), plaintiff-appellee continued, from time to time, demanded from defendant-appellant to vacate the land and remove his house; however, defendant-appellant continued to refuse; later, defendant-appellant claimed to be the owner of the property by virtue of a Free Patent Decree issued in his favor by the Bureau of Lands and that he had been paying realty tax thereon; plaintiff-appellee verified defendant-appellant's claim and discovered that sometime in 1987, a portion of the estate's property, covering an area of three hundred twenty five (325) square meters, had been titled in the name of defendant-appellant under an Original Certificate of Title (*OCT*) No. OP-1751; defendant-appellant had also declared that portion of plaintiff-appellee's land for taxation purposes under Tax Declaration No. 004-00478; CENRO was impleaded as defendant, being a necessary party for a complete determination of the case; at the time of the issuance of OCT No. OP-1751, Asuncion was the District Land Officer who caused the issuance of the Free Patent Decree in favor of defendant-appellant; defendant-appellant is a possessor in bad faith, having knowledge that the land he claims belongs to plaintiff-appellant and titled in its name since 1968; plaintiff-appellee has been deprived of the possession and use of the property for nineteen (19) years for which defendant-appellant should be held liable for actual and/or compensatory damages in the amount of P200,000.00; since the residential house and all other constructions made on the land were constructed in bad faith; on account of defendant-appellant's unjustified refusal to vacate the property, and his bad faith in applying for, and acquiring, a Free Patent Decree, he should be liable for moral damages in the amount of P50,000.00; defendant-appellant should also be liable for attorney's fees in the amount of P40,000.00 since plaintiff-appellee was compelled to file the action and litigate to enforce its rights.

Defendant-appellant filed his Amended Answer with Counterclaim<sup>[12]</sup>, later on, further amended after the RTC granted<sup>[13]</sup> defendant-appellant's Motion<sup>[14]</sup> to admit Amended Answer to conform to evidence.

In the Amended Answer with Counterclaim (To Conform to Evidence)<sup>[15]</sup>, defendant-appellant alleged that: plaintiff-appellee has no cause of action and if it had any, the same is barred by prescription and/or laches; in the early 1950s, defendant-appellant cleaned a portion of the swamp land with an area of about three hundred (300) to five hundred (500) square meters, the area reached by high tide of Balayan Bay, and covered by second growth forest of kalapinay, mangrove, arome and other shrubs; thereafter, he filled the area with soil and other filling materials and planted coconut trees; in 1957, he constructed a nipa hut where he and his family lived; eventually when his children had grown-up, he constructed the house presently erected thereon; his clearing and improvement of the area were known to spouses Mariano and Maria since their house was only 50 to 100 meters away and the spouses pass by the area, this, while defendant-appellant was clearing the land,

introducing the improvement and constructing the small nipa hut and, thereafter, the house; spouses Mariano and Maria had not molested, disturbed or prevented him from the peaceful possession and occupation of the premises, over which he eventually obtained a Free Patent title; plaintiff-appellee has not clearly defined and identified the parcel of land covered by its certificate of title allegedly occupied by defendant-appellant which had been in his possession peacefully, continuously, under an adverse claim of ownership against the whole world, for a period of more than 30 years; and the value of the clearing of the land and improvements introduced is more than Php1,000,000.00.

By way of counterclaim, defendant-appellant alleged that: by reason of the filing of the case without sufficient legal basis, he was compelled to hire the services of counsel entitling him to payment of attorney's fees in the amount of P80,000.00, plus P2,500.00 for every court appearance; P20,000.00 as expenses incident to litigation; and lastly, because he sustained sleepless nights and anxiety as a result of the unfounded suit, he is entitled to moral damages in the amount of P250,000.00.

Pre-trial was conducted and a Pre-trial Order<sup>[16]</sup> was issued stating the following admitted facts and issues, viz.:

#### ADMITTED FACTS

1. The existence of OCT No. OP-1751 in the name of defendant (*appellant*) over a parcel of land with an area of 325 square meters;
2. The land claimed by *defendant-appellant* is covered by Tax Declaration No. 004-00478 in the name of the *defendant-appellant*;
3. *Defendant-appellant* has been in possession of the disputed property since 1968 up to the present;
4. There is a residential house constructed on the disputed land by the *defendant-appellant* made of strong materials.

#### ISSUES

1. Whether or not the disputed land is within and/or covered by the Torrens Title of the plaintiff (*appellee*);
2. If it is within the Torrens Titles of the *plaintiff-appellee*, whether or not the Patent Decree and title of *defendant-appellant*, OCT OP-1751, is valid against the Torrens titles of the *plaintiff-appellee*;
3. If the title of the *defendant-appellant* is invalid against the title of the *plaintiff-appellee*, is he liable for damages to the *plaintiff-appellee*?

On January 28, 2002, the RTC issued an Order<sup>[17]</sup> directing CENRO Geodetic Engineer Leonito D. Calubayan to conduct a relocation survey, after which, the latter was able to verify and ascertain, in his Commissioner's Report (*the Report*)<sup>[18]</sup>, that the property/area occupied by defendant-appellant is definitely within the properties of plaintiff-appellee, particularly those covered by TCT Nos. T-12892, T-14552 and T-14586.

On April 21, 2003, the RTC issued an Order<sup>[19]</sup> directing counsel of plaintiff-appellee to file the necessary motion to exclude defendants CENRO and Asuncion since they have not been duly notified of hearings in previous proceedings. However, plaintiff-appellee failed to comply, thus, the RTC dismissed the case in the Order<sup>[20]</sup> dated June 2, 2003. Subsequently, in an Order<sup>[21]</sup> dated November 20, 2003, the RTC reconsidered and set aside the dismissal of the complaint and set further hearings thereon.

Plaintiff-appellee presented its lone witness, Jacobo, who testified<sup>[22]</sup> on the allegations in the Amended Complaint and that: he is the court-appointed<sup>[23]</sup> judicial administrator of the estate of his parents, Mariano and Maria, who died in 1983 and 1994, respectively; he talked to defendant-appellant and the other occupants of the estate to vacate the property; however, unlike the other occupants who vacated, defendant-appellant told him that he would never vacate the property because he owned the land and showed him OCT No. OP-1751 Free Patent No. (IV-3A)-2036; because he had doubts on defendant-appellant's title, Jacobo went to CENRO where he was informed that defendant-appellant had no public land application and no plan was submitted; to prove their claim of ownership, Jacobo identified Decree No. 125032<sup>[24]</sup> and Decree No. 125111<sup>[25]</sup> of the Court of First Instance, Province of Batangas, issued in 1922, from which titles to the three lots came from; he also heard from his parents that defendant-appellant asked permission from his father before constructing a house on their property.

For the defense, Atty. Edwin Lagac testified<sup>[26]</sup> that: he is the Register of Deeds of Nasugbu, Batangas since October 2005; the only record of OCT No. OP. 1751 in the name of defendant-appellant is the original certificate of title itself, which was prepared by the DENR; there is a possibility that the accompanying documents, specifically the application for free patent, survey plan of the property, and the technical description, were destroyed or lost.

Defendant-appellant also testified<sup>[27]</sup> to confirm his judicial affidavit<sup>[28]</sup> executed on September 27, 2006 wherein he stated that: he first came upon the lot in question in 1957 when he was scouting around in order to live separately from his parents; he then found the land which was a big swampy place; he started clearing a portion of approximately 200-300 square meters, more or less, and had it filled up with soil, gravel, stones, sand and other filling materials; he was not prevented from clearing the area; in fact, Mariano even stopped along the place in going to the shoreline of Balayan Bay and watched him and his workers cut the trees and second growth forest; he erected a small hut and when his children were growing up, he built his house thereon; he knew of the complaint for ejectment and the decision against those who signed the compromise agreement; however, he refused to vacate because he steadfastly claimed that he is the owner of the lot; sometime in 1990 or 1994, Jacobo requested him to vacate but he refused and told Jacobo that he has title over the property; he then showed his title to Jacobo; moreover, he declared the property for taxation purposes and paid for the same.

The parties submitted their respective formal offer of exhibits, as follows:

***Plaintiff's exhibits***<sup>[29]</sup>

Exhibit	Description
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"A"	Certified photocopy of Court's Order appointing Jacobo Martinez as Special Administrator of the estate of Mariano Martinez
"B", "B-1", "B-2"	TCT No. 12892
"C", "C-1", "C-2"	TCT No. 14552
"D", "D-1", "D-2"	TCT No. 14586
"E", "E-1", "E-2"	Certified Copy of the verified Complaint in the Ejectment suit (Civil Case No. 223).
"F", "F-1"	Duplicate Original copy of the Decision in Civil Case No. 223
"G"	OCT No. OP-1751
"H"	Certification issued by Bernardo Dacanay, CENRO, that Natalio Javier has no existing public land application in Balayan, Batangas
"I"	Certification issued on April 2, 2002 by Robert Pangyarihan, DENR Registry Office IV, that it appears that no plan has been processed in 1987 bearing Plan No. F (IV-3A)3991-D
"J"	Decree No. 125032 issued on August 22, 1922 by the CFI of the Province of Batangas declaring that the estate of Pedro Martinez as the owner in fee simple of Lot No. 261 with an area of 10,281 square meters, more or less
"K", "K-1"	Decree No. 125111 issued on August 29, 1922 by the CFI of the Province of Batangas declaring that the estate of Pedro Martinez as the owner in fee simple of Lot No. 330 with an area of 1,021 square meters, more or less
"L", "L-1", "L-2"	Commissioner's Report with annexes