

## **FOURTH DIVISION**

**[ CA-G.R. CV NO. 99981, May 02, 2014 ]**

**SPOUSES ELIEZER PALACAY AND LETICIA RAMOS-PALACAY,  
AND ERLINDA C. PALACAY, PLAINTIFFS-APPELLANTS, VS.  
FLORIDA SUMAOANG-CORNIEL[\*] REPRESENTED BY HER  
ATTORNEY-IN-FACT, EFREN SUMAOANG, DEFENDANT-APPELLEE.**

### **D E C I S I O N**

**TOLENTINO, A.G., J.:**

This is an appeal under Rule 41 in relation to Rule 44 of the Revised Rules of Court seeking to annul and set aside the decision<sup>[1]</sup> dated October 11, 2012 and the order<sup>[2]</sup> dated November 29, 2012 of the Regional Trial Court (RTC) of Bangui, Ilocos Norte, Branch 19.

The antecedents of this case are as follows:

Benjamin Palacay was in possession of a certain parcel of land located in Barangay No. 6, Dilavo, Pasuquin, Ilocos Norte with an area of 337.5 square meters since 1983, as evidenced by the Declaration of Real Property<sup>[3]</sup> covering the said land. When the cadastral survey was conducted, the subject lot was referred to as Lot No. 310016, with an area of 390 square meters, as evidenced by its Declaration of Real Property.<sup>[4]</sup> Plaintiffs-appellants Eliezer Palacay and Erlinda Palacay are children of spouses Benjamin Palacay and Rosalina Palacay. The plaintiffs-appellants and the defendant-appellee were longtime neighbors because their houses are adjacent to each other.

During his lifetime, Benjamin Palacay divided the subject lot into two (2) parts and partitioned the same in favor of his children. The plaintiffs-appellants constructed their houses on their respective share and secured the tax declaration over the same in 1993.

From the time the subject property was partitioned, the plaintiffs-appellants were in possession of the same until the defendant-appellee filed a complaint for ownership, docketed as Civil Case No. 865-19, against Benjamin Palacay over the subject lot with the Municipal Trial Court (MTC) of Pasuquin Burgos, Ilocos Norte which dismissed the complaint. However, on appeal, the Regional Trial Court (RTC) of Bangui, Ilocos Norte, Branch 19, reversed the MTC's decision, declaring the defendant-appellee as absolute owner of the subject lot. The decision of the RTC was affirmed by the Court of Appeals (CA) and the Supreme Court (SC), and it became final and executory.

In relation to the aforementioned decision, the defendant-appellee filed a petition for contempt against the plaintiffs-appellants because they were still in possession of the subject lot despite order to vacate the same. In effect thereof, the plaintiffs-appellants filed a complaint for ownership, quieting of title, and damages with

application for preliminary prohibitory injunction relative to the writ of execution in Civil Case No. 865-19 against the defendant-appellee with the RTC of Bangui, Ilocos Norte, Branch 19, which rendered a decision<sup>[5]</sup> dated October 11, 2012 dismissing the complaint on the ground of *res judicata*. The dispositive portion of the decision reads:

"WHEREFORE, the case is hereby ordered (sic) DISMISSED on ground RES JUDICATA. The defendant is hereby declared the owner of the lots in suit.

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

A motion for reconsideration was filed by the plaintiffs-appellants but the same was denied in an order<sup>[7]</sup> dated November 29, 2012. The decretal portion of the order reads:

"IN VIEW OF THE FOREGOING, the Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED."<sup>[8]</sup>

Hence, this appeal.

The following are the issues raised by the plaintiffs-appellants:

1. Whether or not the decision in Civil Case No. 865-19 affects the plaintiffs-appellants being the successors-in-interest of Benjamin Palacay, the only defendant therein, and possessors at present of the subject lot.
2. Whether or not the plaintiffs-appellants' possession of their specific landholdings can be considered open, continuous, exclusive, adverse, notorious possession and in the concept of owners considering that the plaintiffs-appellants and the defendant-appellee are adjacent neighbors.
3. Whether or not the plaintiffs-appellants can be considered as possessors and builders in good faith considering that they paid taxes over their respective lots with the knowledge of the defendant-appellee.
4. Whether or not the court *a quo* erred in dismissing the complaint on the ground of *res judicata* without giving the plaintiffs-appellants an opportunity to adduce evidence to prove their claim on the subject lot.

THE APPEAL MUST FAIL.

There is no question that the plaintiffs-appellants are the children of Benjamin Palacay who was in possession of the subject property from which the plaintiffs-appellants derived their right therefrom. It has been held that an identity of parties existed when some of the parties were successors-in-interest litigating for the same thing and under the same title and in the same capacity.<sup>[9]</sup> The term successor-in-interest is a person with a joint interest in the property, or his spouse or heirs.<sup>[10]</sup> Thus, it cannot be said that the plaintiffs-appellants have separate, distinct, and independent personalities from their predecessor-in-interest. In filing the instant case, the rights asserted and the reliefs prayed for which were founded on the same set of facts by the plaintiffs-appellants, is the same case involving their father. The