

FIRST DIVISION

[G.R. No. 248763, March 11, 2020]

SPOUSES JESUS AND AIDA CASTRO, PETITIONERS, VS. SPOUSES FELIMON AND LORNA ESPERANZA, RESPONDENTS.

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This Petition for Review assails the Decision^[1] dated July 12, 2019 of the Court of Appeals in CA-G.R. CV No. 05047-MIN entitled "*Spouses Felimon and Lorna Esperanza v. Spouses Jesus and Aida Castro*," disposing, thus:

WHEREFORE, the Appeal is **GRANTED**. The Resolution dated 18 April 2018 of the Regional Trial Court, Branch 8, Dipolog City, is hereby **REVERSED** and **SET ASIDE**.

Accordingly, judgment is rendered as follows:

- 1) Appellees Spouses Jesus and Aida Castro are **DIRECTED** to remove the concrete fence and other structures they built on Lot No. 2759-C-2-B-12, Psd-09-013524, commonly known as "Foot Path";
- 2) Appellees Spouses Jesus and Aida Castro are permanently **enjoined or restrained** from obstructing appellants and the other neighboring lot owners from having access to and using the Foot Path, as their outlet to the national highway; and
- 3) Appellees Spouses Jesus and Aida Castro are **ORDERED** to pay appellants Spouses Felimon and Lorna Esperanza the amount of Fifty-Thousand Pesos (P50,000.00) as attorney's fees.

SO ORDERED.^[2]

Proceedings before the Trial Court

Respondents Spouses Felimon and Lorna Esperanza filed their Petition^[3] dated

January 20, 1997 for mandatory injunction with damages against petitioners Spouses Jesus and Aida Castro. Respondents essentially alleged:

They are absolute owners of Lot No. 2759-C-2-A, a residential lot covered by TCT No. T-7060 and Tax Declaration No. 002-1051 located in Minaog, Dipolog City. The lot is particularly described as follows:

"Bounded on the North by Dry Creek; NW, by Lot 2759-C-1; SE., by Lot 2759-C-2-B; SW., by Lot 2759-C-2-B. Area: 300 sq. meters more or less. Assessed at P1,260.00"^[4]

On the other hand, petitioners are the owners of Lot Nos. 2759-C-2-B-7, 2759-C-2-B-5 and 2759-C-2-B-6, all situated in the same area.^[5]

On the southwest part of their lot lies Lot 2759-C-2-B-12, covered by TCT No. T-7735 and measuring 262 square meters, and is known as the "Foot Path." The foot path lies between their lot and the three (3) lots owned by petitioners. They and the owners of the neighboring lots use the foot path as an ingress to and egress from the national highway.^[6]

Sometime in May 1996, petitioners constructed an interlinked wire fence and closed off the foot path, thereby preventing them and their neighbors from using the same. The closure of the foot path meant they could no longer access the national highway and even their own property.^[7]

They demanded that petitioners desist from closing off the road but were ignored. They filed a complaint with the barangay captain, who, in turn, made verbal and written demands on petitioners to reopen the foot path. But petitioners ignored the barangay captain's demands.^[8]

The closure of the foot path caused them irreparable injury, if not great inconvenience because they had to wade through a creek to access the outside world. They prayed for actual damages, moral damages, exemplary damages, attorney's fees and cost of suit.^[9]

On the other hand, petitioners countered that respondents' property was bounded on the east by a dry creek. Respondents had been using this dry creek as a way in and out of their property for a long time now. The western part of respondents' lot was bounded by Lot Nos. 2759-C-2-B-5, 2759-C-2-B-4, and 2759-C-2-B-12, all of which are part of the foot path. Further, the foot path lies among the five (5) lots that they also own: Lot Nos. 2759-C-2-B-5, 2759-C-2-B-6, 2759-C-2-B-7, 2759-C-2-B-2 and 2759-C-2-B-1.^[10]

The foot path did not exist when respondents acquired Lot No. 2759-C-2-A. They had to enclose their properties with a fence to protect their interests. They also spent P200,000.00 to convert Lot No. 2759-C-2-B-12 from a deep swamp to a dry foot path by filling it with soil. Respondents never contributed a cent for the construction of the foot path. Besides, respondents used the dry creek to gain

access to the national highway.^[11]

Respondents acquired their property from a certain Nestor Reluya through a deed of absolute sale. In that document, it was emphasized that the dry creek was the means to access the national highway. Even respondent's very own TCT No. T-7060 bears an entry to the effect that ingress and egress was through a dry creek. Respondents never demanded from Nestor Reluya for a right of way to the national highway.^[12]

Ruling of the Trial Court

After due proceedings, the trial court, by Resolution^[13] dated April 18, 2018, dismissed the petition. It held that respondents failed to establish the requisites of a right of way on petitioners' properties. Specifically, respondents failed to prove that there was no adequate outlet from their property to the national highway. Based on the trial court's ocular inspection, the dry creek had already been converted to a gravel road that was wider than the foot path. The neighbors also use the gravel road in going to the national highway. It would be prejudicial to petitioners, who had bought all the surrounding lots, if they would be compelled to provide a foot path on their properties just to connect respondents to their own lots. Besides, the foot path was a voluntary easement granted by Nestor Reluya to the owners of Lot Nos. 2759-C-2-B-1 to 12 and to respondents' lot as well. In the deed of absolute sale between Nestor Reluya and respondents, there was no mention of a right of way granted to the latter. TCT No. T-2575 issued to Nestor Reluya states that a right of way was granted only to a certain Agosto Nazareth for Lot 1759-C-4-A for a consideration of P390.00. The trial court further observed:

The Foot Path is not a compulsory legal easement which cannot be disturbed or recalled. Being a voluntary easement the control still belongs to the owner of the same, Nestor Reluya who had long died, and whose other properties, including those who bought from him, had also been sold to Respondents. Practically the said Foot Path is now under the control of the new owner, the Respondents having bought the surrounding lots. Said Foot Path serves no one anymore, since the whole lot area is now practically owned by Respondents. The purpose of its birth had become mooted by the disappearance of its other users. After all it came about only for the use of the Lot B owners (i.e. B-11 to B-11, with the further note that B-10 is a Road Lot which serves the purpose already of a compulsory servitude, while Lot B-12, the Foot Path itself, to the mind of the (sic) this court was intended only for the Lot B subdivision owners and not for the petitioners who have an adequate outlet via the dried creek).

Granting that said Foot Path is demandable as a compulsory or given and existing servitude, still Petitioners under the requisites of servitude cannot have it. It is too burdensome on the Respondents, and the rule is that convenience is not the gauge but adequacy and not artificial necessity. Besides, he never paid any indemnity for it.^[14]

Consequently, the trial court decreed:

WHEREFORE, premises considered it not being clear by preponderance of evidence that a road right of way was given to Petitioners, or that the existing Foot Path was for their benefit, this petition is hereby DISMISSED.

Petitioner instead shall use the adequate outlet (the dried creek) towards the Road Lot, for his ingress and egress to the national highway.

SO ORDERED.^[15]

Proceedings before the Court of Appeals

On respondents' appeal, they faulted the trial court for: a) failing to consider petitioners were not the owners of the foot path and therefore had no right to bar anyone from gaining access to it; b) holding that they had not proven the four (4) requisites to establish a right of way; and c) not awarding them damages.

By its assailed Decision dated July 12, 2019, the Court of Appeals reversed. It found that the foot path had its own separate title, specifically TCT No. T-7735, bearing the name of "Foot Path" and was not among the lots sold or transferred to third persons by Nestor Reluya who remained its owner. Even petitioner Jesus Castro testified that he was not the owner of the foot path. Neither Nestor Reluya nor his heirs had relinquished their right thereto or changed its purpose, thus, the foot path retained its nature as a passageway. Since petitioners only owned the adjoining lots and not the foot path itself, they had no exclusive, nay, absolute right to close it.

The Court of Appeals, thus, directed petitioners to remove the concrete fence and other structures they built on the foot path and permanently enjoined them from obstructing the ingress and egress of respondents and the other neighbors. Petitioners were also ordered to pay respondents P50,000.00 as attorney's fees.

The Present Petition

Petitioners now invoke this Court's discretionary appellate jurisdiction to reverse and set aside the Court of Appeals' decision. They essentially reiterate their argument that although the foot path has a separate title, it is intended for their benefit and not for the benefit of respondents who already had the dry creek as their means to access the national highway. Being a voluntary easement, control over the foot path remained with Nestor Reluya, and after his death, control over the foot path had been transferred to them as his successors-in-interest. Since the whole area practically belonged to them already, the foot path no longer has any use to third persons, including respondents. Besides, respondents failed to prove the four (4) requisites for the establishment of a compulsory easement.^[16]