

SECOND DIVISION

[G.R. No. 191132, January 27, 2016]

APOSTOLIC VICAR OF TABUK, INC. REPRESENTED BY BISHOP PRUDENCIO ANDAYA, JR., PETITIONER, VS. SPOUSES ERNESTO AND ELIZABETH SISON AND VENANCIO WADAS, RESPONDENTS.

DECISION

BRION, J.:

This petition for review on *certiorari* seeks to reverse the 23 November 2009 and 26 January 2010 orders of the Regional Trial Court of Luna, Apayao, Branch 26 (RTC) in **Civil Case No. 2-2009**.^[1] The RTC dismissed the petitioner's Rule 47 petition for annulment of judgment addressing the decision of the 6th Municipal Circuit Trial Court of Kabugao-Conner (MCTC) in **SPL. Civil Case No. 32-05-Cr**.^[2]

ANTECEDENTS

On 16 February 2005, the respondent spouses Ernesto and Elizabeth Sison and respondent Venancio Wadas filed a forcible entry complaint against the Vicar Apostolic of Mountain Province represented by Fr. Gerry Gudmalin. The complaint was filed with the MCTC and docketed as **Spl. Civil Case No. 32-2005-Cr**.

The respondents alleged that on 29 August 2004, Fr. Gerry Gudmalin, a priest of the St. Anthony Church of the Vicar Apostolic of Mountain Province, ordered the forcible demolition of their respective perimeter fences in order to expand the area of the Church. The priest dispossessed them of their lands and began constructing a building that encroached on portions of their respective lots.

On 11 March 2005, MCTC Junior Process Server Raul T. Abad executed an officer's return. The return states:

Respectfully informed the Hon. Court regarding the "SUMMON[s]" in Civil Case No. 32-2005-Cr., with the information that it was duly served, but the person/defendant cited therein went to Manila for an official business as per verbal information related by her [sic] secretary Mariphee B. Polio, who received and signed said summon[s], she promised the undersigned that said summon[s] will be handed to the defendant upon his arrival from Manila.

On 13 July 2005, the case was submitted for decision because the defendant failed to file its answer despite service of summons.

On 12 August 2005, the MCTC rendered a decision in favor of the respondents. It ordered Fr. Gerry Gudmalin and the Vicar Apostolic of Mountain Province to: (1) refrain from any further construction within the respondents' properties; (2) remove

their constructions; (3) vacate and return the respondents' properties; and (4) pay damages.

On 7 September 2005, the MCTC decision **became final and executory**.^[3]

On 19 September 2005, petitioner Apostolic Vicar of Tabuk, Inc. (*the Vicariate of Tabuk*) filed an urgent manifestation and motion before the MCTC.^[4] It manifested: (1) that the land subject of Spl. Civil Case No. 32-05-Cr. is owned and possessed by the Vicariate of Tabuk represented by Reverend Monsignor Prudencio P. Andaya, Jr., not by the Vicariate Apostolic of Mt. Province represented by Fr. Gerry Gudmalin as alleged in the complaint; and (2) that it had been denied due process because it was neither impleaded nor served summons. It moved for the court to set aside its 12 August 2005 decision and to summon and implead the Vicariate of Tabuk.

On 28 August 2006, the MCTC denied the petitioner's urgent motion and manifestation.^[5] It treated the motion as a motion for reconsideration - a prohibited pleading under Section 19 of the Rules on Summary Procedure. It also stressed that in ejectment cases, the basic issue is possession *de facto*, not ownership; the proper defendant is the person who actually disturbed the complainant's possession over the property. Thus, the respondents correctly impleaded the Vicariate of Mt. Province (represented by Fr. Gerry Gudmalin) which ordered the demolition of the perimeter fences and the expansion of the Church's occupied area.

On 7 September 2007, the petitioner filed a notice of appeal from the 28 August 2006 decision. The appeal was raffled to the Regional Trial Court (RTC) of Luna, Apayao, Branch 26 and docketed as **Civil Case No. 1-2008**.^[6]

On 3 June 2008, the RTC dismissed the appeal because the petitioner failed to file its appellant's memorandum within the reglementary period.

On 10 June 2009, the Vicariate of Tabuk filed a Rule 47 petition for annulment of the MCTC judgment in **Special Civil Case No. 32-2005-Cr**.^[7] It argued that the MCTC rendered the decision without acquiring jurisdiction over its person. It also alleged that the Vicariate of Mt. Province no longer exists because it was dissolved in 1990. The petition was filed before the RTC of Luna, Apayao, Branch 26 and docketed as **Civil Case No. 2-2009**.

The respondents filed a motion to dismiss^[8] dated 14 July 2009 because: (1) the petition *had* no cause of action and (2) the Vicariate of Tabuk had no juridical personality or legal capacity to sue. The respondents reasoned that the Vicariate of Mt. Province, through Fr. Gerry Gudmalin was properly impleaded because the sole issue was prior possession. They posited that since the Vicariate of Tabuk and Bishop Prudencio Andaya were not impleaded in **Spl. Civil Case No. 32-2005-Cr**, then they have no personality to file the petition for the annulment of judgment.

On 28 August 2009, the Vicariate of Tabuk filed its opposition^[9] arguing that: (1) it is a corporation sole duly registered with the Securities and Exchange Commission; and (2) it is the proper party to file the petition for annulment because Fr. Gerry Gudmalin had no authority to represent the corporation sole in Spl. Civil Case No. 32-2005-Cr.

On 17 September 2009, the RTC denied the motion to dismiss because the petition stated a cause of action.^[10] It held that if the allegations in the petition were hypothetically admitted, then a judgment can be rendered in accordance with the prayer. It brushed aside the contention that the Vicariate of Tabuk had no legal personality because its articles of incorporation were attached to the opposition.

On 22 September 2009, the respondents moved for reconsideration of the RTC's denial of their motion to dismiss.

On 23 November 2009, the RTC reconsidered its denial and dismissed the petition for failure to state a cause of action. The RTC reasoned that the petitioner's filing of a notice of appeal and subsequent failure to file its appeal memorandum precluded its resort to annulment of judgment; the remedy is not available to a party who lost his right to appeal due to his own fault. The RTC concluded that since the petitioner claimed ownership over the property, then it should file an appropriate case of ownership with the proper court instead.

The petitioner moved for reconsideration which the RTC denied on 26 January 2010.

On 19 February 2010, the petitioner elevated the case directly to this court by filing the present petition for review on *certiorari*.

THE PETITION

The petitioner prays that the Court set aside the RTC's dismissal of its petition for annulment of judgment and to issue a mandatory injunction restoring its possession of the subject lot.

It argues: (1) that its petition for annulment sufficiently stated a cause of action; (2) that it is the real party-in-interest that should have been impleaded in the ejectment suit; (3) that it had legal standing to question the MCTC's failure to serve summons; and (4) that its filing of a notice of appeal did not amount to voluntary submission to the MCTC's jurisdiction because the void judgment was already "final and executory" when the petitioner discovered it.

In their comment, the respondents maintain: (1) that the MCTC acquired jurisdiction over the named defendant in the case; (2) that as the actual occupant of the subject property, the named defendant is the real party-in-interest; and (3) that the petitioner cannot resort to an action for annulment of judgment (an equitable remedy) because it lost its opportunity to appeal after it failed to file its appellant's brief.

OUR RULING

The RTC dismissed the Vicariate of Tabuk's petition for annulment of judgment because it allegedly *failed to state* a cause of action. However, upon reviewing the RTC's 23 November 2009 order and examining the petition for annulment, we conclude that the dismissal was actually due to *lack* of a cause of action.

Failure to state a cause of action and lack of a cause of action are not the same. **Failure to state a cause of action** refers to an **insufficiency of the allegations**