

SECOND DIVISION

[G.R. No. 219558, October 19, 2016]

**HEIRS OF JOHNNY AOAS, REPRESENTED BY BETTY PUCAY,
PETITIONERS, VS. JULIET AS-IL, RESPONDENT.**

DECISION

MENDOZA, J.:

In this Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, petitioners Heirs of Johnny Aoas (*Heirs of Aoas*), represented by Betty Pucay, question the September 17, 2014 Decision^[2] and June 8, 2015 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 117020, which reversed the October 6, 2010 Resolution^[4] of the Regional Trial Court of La Trinidad, Benguet, Branch 63 (RTC), in Civil Case No. 06-CV-2275.

In reversing the said resolution, the CA reinstated the August 31, 2010 RTC Decision^[5] which affirmed in toto the August 9, 2006 Decision^[6] of the Municipal Trial Court of Itogon, Benguet (MFC), in a forcible entry case, docketed as Civil Case No. 446, filed by respondent Juliet As-il (*As-il*) against the Heirs of Johnny Aoas. The MTC decision ordered the Heirs of Aoas or their representative and all persons acting under them to vacate and turn over peacefully the actual and material possession of a 42 square meter lot located in Tuding, Itogon, Benguet, covered by Transfer Certificate of Title (TCT) No. T-57645 to respondent As-il.

The Antecedent

As-il filed a complaint for forcible entry and damages against the Heirs of Aoas before the MTC, claiming absolute ownership and possessory rights over the 42 square meter portion of a parcel of land covered by **TCT No. T-57645**. She alleged that since time immemorial, she, by her predecessors and successors-in-interest, had been in actual, open, physical, and notorious possession of the subject property; that sometime in January 2005, she discovered that the Heirs of Aoas, by stealth and strategy, initiated the preparatory digging, clearing and construction of a house and enclosing the subject land, thus, depriving and dispossessing her of the same; and that when confronted, they asserted ownership of the same property. From the foregoing, As-il asked the MTC to order the Heirs of Aoas to vacate the subject property and that compensation be given to her as well as damages and attorney's fees.

In their Answer, the Heirs of Aoas contended that the area As-il claimed was their property, it being part of a land registered in their names under **TCT No. T-32507**; that they had been in continuous, public and adverse possession and occupation of it; that they have erected a residential house and undertook activities such as fencing, rip-rapping and other improvements done openly and publicly on the said property; that it was only after completion of the residential house when As-il

asserted her claim over the property; and that in the belief of being the true owners, they refused As-il's demands to turn over the property.

At the MTC Level

During trial, the MTC, with the concurrence of both parties, ordered the conduct of a *relocation survey* over the property. A Survey Commission was agreed to be formed and upon completion of its tasks, a report was issued which, however, failed to address the question on ownership. It merely confirmed that the properties *overlapped each other*. In other words, conflict in boundaries was acknowledged.

In its August 9, 2006 Decision, the MTC ruled that a portion of the land claimed by the Heirs of Aoas encroached a part of the land registered under As-il's name. It found that As-il had prior physical possession over the subject property, which could not be defeated by the subsequent possession of the Heirs of Aoas. Thus:

WHEREFORE, in view of all the foregoing, Judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

- a) Ordering the defendants, their representative and all persons acting under them to vacate and to turn over peacefully the actual and material possession of the 42 square meter lot indicated (PORTION of LOT 4 (ALLEY) occupied by the HRS AOAS, REP. BY PUCAY AREA-42 sq.m.) in the Joint Relocation Survey/Sketch Plan prepared by the Survey Commission and marked as Exh. "D" for the plaintiff and Exh. "4" for the defendants which is part and parcel of the land of the plaintiff covered by Transfer Certificate of Title No. T-57645;
- b) [t]o remove any and all of the improvements found within the 42 square meters within sixty (60) days from the finality of the judgment;
- c) to pay by way of compensation for the reasonable use and occupation of the said 42 square meters fixed at a reasonable amount of P1,000.00 a month from the commencement of the action until the same shall have been fully paid;
- d) to pay by way of attorney's fees in the amount of P5,000; and;
- e) to pay the costs

SO ORDERED. [7]

Aggrieved, the Heirs of Aoas appealed before the RTC.

RTC Ruling

In its August 31, 2010 Decision, the RTC initially affirmed the MTC decision. It reiterated that as per the report of the Survey Commission, a portion of the property owned by the Heirs of Aoas encroached the property of As-il. The dispositive portion reads:

WHEREFORE, in view of the foregoing, the instant appeal is hereby DISMISSED for lack of merit. And the Decision appealed from is hereby **AFFIRMED** *in toto*.

SO ORDERED.^[8]

Acting on petitioners' motion for reconsideration, however, the *RTC reversed itself*. Thus, in its October 6, 2010 Resolution,^[9] the RTC dismissed the complaint for forcible entry stating that had it earlier considered the Tax Declaration of Real Property No. 007-02522 in the names of Heirs of Aoas, its conclusions and that of the MTC would have been different.

It opined that the said tax declaration, which was formally offered as Exhibit "3," showed that the Heirs of Aoas had already been in possession of the subject property even prior to the year 2000, negating As-il's claim that she was deprived of her prior possession. The RTC observed that while the Heirs of Aoas submitted a position paper together with the documentary evidence and affidavits of witnesses, As-il did not. Thus, it posited that As-il's complaint was unsupported by evidence, which was insufficient to debunk the documentary evidence of the Heirs of Aoas, specifically the tax declaration supporting the latter's right to possess the disputed portion of the lot. Thus:

WHEREFORE, in view of the foregoing, the Decision rendered by this Court dated August 31, 2010 is hereby **RECONSIDERED** and **SET ASIDE**. In its stead, another judgment is hereby rendered **REVERSING** the Decision appealed from. The Complaint filed by the appellee is hereby **DISMISSED**, for lack of merit.

SO ORDERED.^[10]

Unsatisfied, As-il appealed before the CA.

The CA Ruling

In its September 17, 2014 Decision,^[11] the CA held that points of law, theories, issues and arguments, including the tax assessments, not brought to the attention of the trial court could not be and ought not to be considered by a reviewing court, as those could not be raised for the first time on appeal. Considering that the tax declaration used by the RTC as basis to reverse its earlier decision and that of the MTC was not presented during the trial proper, the appellate court upheld the right of As-il to evict the Heirs of Aoas, as earlier adjudged by the MTC and the RTC in the