

SECOND DIVISION

[G.R. No. 191710, January 14, 2015]

DEMETRIA DE GUZMAN, AS SUBSTITUTED BY HER HEIRS OLGA C. BARBASO AND NOLI G. CEMENTTNA;* LOLITA A. DE GUZMAN; ESTHER G. MILAN; BANAAG A. DE GUZMAN; AMOR G. APOLO, AS SUBSTITUTED BY HIS HEIRS ALBERTO T. APOLO, MARK APOLO AND GEORGE APOLO;* HERMINIO A. DE GUZMAN; LEONOR G. VIVENCIO; NORMA A. DE GUZMAN; AND JOSEFINA G. HERNANDEZ, PETITIONERS, VS. FBLINVEST DEVELOPMENT CORPORATION, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

In this Petition for Review on *Certiorari*,^[1] petitioners question the extent of the easement of right of way granted to them and the indemnity for the same as fixed by the Court of Appeals (CA) in its September 25, 2009 Decision^[2] and March 1, 2010 Resolution^[3] in CA-G.R. CV No. 87920.

Factual Antecedents

Petitioners Demetria de Guzman, Lolita A. de Guzman, Esther G. Milan, Banaag A. de Guzman, Amor G. Apolo, Herminio A. de Guzman, Leonor G. Vivencio, Norma A. de Guzman and Josefina G. Hernandez (petitioners)^[4] were co-owners in fee simple of a parcel of land measuring 15,063 square meters and situated in Barrio Bulao, Cainta, Rizal, which was later subdivided among them and for which individual titles were issued. The property is enclosed and surrounded by other real properties belonging to various owners. One of its adjoining properties is Filinvest Home Subdivision Phase IV-A, a subdivision owned and developed by respondent Filinvest Development Corporation (respondent) which, coming from petitioners' property, has a potential direct access to Marcos highway either by foot or vehicle. As such, petitioners filed on August 17, 1988 a Complaint for Easement of Right of Way^[5] against respondent before the Regional Trial Court (RTC) of Antipolo.

Unwilling to grant petitioners a right of way within its subdivision, respondent alleged in its Answer that petitioners have an access to Sumulong Highway through another property adjoining the latter's property. In fact, the distance from petitioners' property to Sumulong Highway using the said other property is only 1,500 meters or shorter as compared to the 2,500-meter distance between petitioners' property and Marcos Highway using respondent's subdivision.^[6]

On April 30, 1993, the RTC rendered a Decision^[7] granting petitioners the right of way across respondent's subdivision, ratiocinating as follows:

The Court holds that a right of way as prayed in the complaint can be granted.

The adverted route by [respondent] is unfeasible and unavailing. The route, aside from being hilly, has to traverse raw lands [denominated] 3043-A which belong to different owners with no designated road lot thus the impossibility of free access thereon. Aside from that fact it is not passable by vehicular means.

Whereas if [petitioners] would pass through the [respondent's] road lot particularly Lot 15 access to the Marcos Highway is readily available to [petitioners'] property. Only a fence [separates] the Filinvest Subdivision and the [petitioners'] property [which] could be removed x x x anytime.

While in the survey of the property of the [petitioners] it is shown that the distance from the subject lot to the Marcos Highway is approximately 2,350 meters and the distance from Sumulong Highway to the subject lot is 1,400 meters, such short distance could not be used as absolute basis to deny the [petitioners] the relief prayed for.

As held in *Bacolod-Murcia Milling Co. vs. Capitol Subd., Inc.*, L-25887, July 26, 1966 and by express provision of [A]rticles 649 and 650 of the Civil Code, a compulsory right of way cannot be obtained unless four requisites are first shown to exist, namely: (1) that it is surrounded by other immovables and has no adequate outlet to a public highway; (2) that there is payment of proper indemnity; (3) that the isolation is not due to the dominant estate's own acts; and (4) that the right of way claimed is at the point least prejudicial to the servient estate and in so far as consistent with this rule where the distance from the dominant estate to a public highway may be the shortest.

The foregoing requirements are present in this case.

As already stated even if it appears that the distance from the subject property to Sumulong Highway is the shortest route, yet it is prejudicial to the [petitioners].

The road in said route is undeveloped, owned by several owners, a raw lot, hilly, while if it would be [respondent's] property which would be the [servient] estate it only takes the removal of the fence in order that [petitioners] could have access to the public highway.^[8]

As to the indemnity, the RTC said:

Lastly, as a requirement for the granting of the easement indemnity is hereby placed at P400,000.00 considering x x x the benefits derived by the dominant estate and the type of the road therein which is concrete.^[9]

Upon respondent's appeal, the CA, in its February 13, 1996 Decision,^[10] affirmed petitioners' entitlement to legal easement of right of way. However, it set aside the P400,000.00 indemnity fixed by the RTC considering that the exact area of the right

of way, as well as its value per square meter, had not yet been determined. The CA thus remanded the case to the RTC for the determination thereof and the corresponding amount of indemnity.

As none of the parties appealed the said CA Decision, the same became final and executory.

Ruling of the Regional Trial Court

Established during the remand proceedings was the fair market value of respondent's property which was pegged by the Municipal Assessor's Office of Cainta at P1,620.00 per square meter. Anent the extent of the property affected by the right of way granted by virtue of the April 30, 1993 RTC Decision as affirmed by the CA, the parties were, however, in disagreement, viz:

[Counsel for Petitioners]

Atty. Barbaso: x x x But if we are going to [take it from] this affirmed decision of the trial court[,] it made [particular] mention of x x x Road Lot 15 access as found in page 4 of the said decision and the said decision also mentioned about a statement and [I] quote x x x: "and it only takes the removal of the fence in order [that] the [petitioners] could have access on the highway.["] So, this is [the] decision. I am quoting it from the decision. So if the decision says it [would] only take the removal of the fence, [it is only] the fence that we are going to remove. It's found on page 4 of the decision of the lower court.

[Counsel for Respondent]

Atty. [Ma'am], may I?

Tolentino:

Atty. There is no other decision. This is the only decision we

Barbaso: are referring to. [It is] one and the same decision.

Court: Decision of the Court of Appeals.

Atty. Court of Appeals decision, page 12, states:

Tolentino: ["]regrettably the lower court did not adequately explain the basis for fixing the indemnity at P400,000.00. There was no finding as to the exact measurement of the right of way, its area in square meters, its value by square meters, the cost of the construction.["] So...

xxxx

Atty. Where the easement is established in such a manner

Tolentino: that its use may be continuous by the dominant [e]state [by] establishing a permanent passage the indemnity will consist [of] the value of the land occupied and the amount of damage.

Atty. We are not occupying the whole of the entrance up to

Barbaso: this very point [Road Lot 15].

Atty. But you cannot reach this point [Road Lot 15] if you

Tolentino: don't pass the entrance.

Atty. Only passing that's why the servitude was granted.

Barbaso: That's why the easement was granted.

Atty. We will submit, your honor, whatever ruling you make.

Tolentino:

Atty. Your honor...

Barbaso:

Court: The claim of [respondent] is from the gate up to here [Road Lot 15].

Atty. Yes, your honor.

Tolentino:

Court: [To Atty. Barbaso] And your claim is from that portion to here [from petitioners' property to Road Lot 15].

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Court: Do it in writing including the jurisprudence in support of your respective claim[s].^[11]

As can be gleaned from the above, petitioners insisted that the right of way pertains only to Road Lot 15 where the fence separating their property from respondent's subdivision, which was supposed to be removed to grant them access thereto, is located. On the other hand, it was respondent's contention that the right of way covers the whole stretch from petitioners' property all the way to its subdivision's gate leading to Marcos Highway.

In resolving the same in its Order^[12] of June 1, 2005, the RTC deduced, from the April 30, 1993 RTC Decision and the February 13, 1996 CA Decision, that the right of way granted pertains only to Road Lot 15, viz:

Based on the records of the case, the Decision of this Court and that of the Court of Appeals are pointing to Road Lot 15 as the subject lot of the right of way granted to the [petitioners]. The said Decisions had long attained finality with respect to the subjectlot which should be the basis for the determination of just compensation.^[13]

Hence, it ruled:

In view of the foregoing, the Court so holds that the appropriate amount of indemnity due to the [respondents] from the [petitioners] for the right of way granted to the latter shall be assessed at One Thousand Six Hundred Twenty Pesos (P1,620.00) per square meter of Road Lot 15 which consists of 264 square meters and the [petitioners] to contribute proportionately to the costs of the construction of the right of way on Road Lot 15 to be determined by both parties.

SO ORDERED.^[14]

Ruling of the Court of Appeals

Aggrieved, respondent appealed the said Order to the CA. It contended that under Articles 649^[15] and 650^[16] of the Civil Code, the measurement of the land comprising a right of way should be the distance of the dominant estate to the public highway. Thus, respondent argued that the right of way should not pertain only to Road Lot 15 as held by the RTC, but should also include Road Lots 3, 10, 6, 4, 2 and 1 which petitioners would likewise use or traverse before they could reach Marcos Highway. It thus contended that the total area to be indemnified is 23,500 square meters and not the mere 264-square meter area of Road Lot 15. Respondent likewise insisted that petitioners should also share in the costs of the construction

and maintenance of these road lots.

The CA agreed with respondent and granted the appeal through its Decision^[17] of September 25, 2009. It held that the RTC erred in concluding that the right of way pertains only to Road Lot 15. It gathered from the April 30, 1993 RTC Decision that what was actually granted to petitioners as a right of way from their property all the way to Marcos Highway had an approximate distance of 2,350 meters. This fact was not disputed by petitioners when they appealed the said RTC Decision. And as per evidence, such distance of 2,350 meters covers not only Road Lot 15 but also Road Lots 3, 10, 6, 4, 2, and 1. Hence, the proper indemnity, per the case of *Woodridge School, Inc. v. ARB Construction Co., Inc.*,^[18] should consist of the value of the entire stretch of the right of way, which measures 2,350 meters in length and 10 meters in width or of a total area of 23,500 square meters at a price of P1,620.00 a square meter, plus damages caused to the servient estate.

As regards the amount of damages, the appellate court held that petitioners cannot be held liable for the cost of the construction of the road lots as they are already existing road lots in respondent's subdivision. Neither is there a need for the construction of new road lots. What it would take for petitioners to have access to Marcos Highway is merely the removal of a fence that separates their property from respondent's subdivision. At the most, the only damage that petitioners may cause in the establishment of the right of way is the wear and tear of the affected road lots.

Thus, the dispositive portion of the CA's Decision:

WHEREFORE, premises considered, the Order dated 1 June 2005 issued by the Regional Trial Court of Antipolo City, Branch 72, is MODIFIED. Plaintiffs-appellees are ordered to pay defendant-appellant the proper amount of indemnity for the legal easement of right of way consisting of (1) the value of the road lots affected, which has an area of 23,500 square meters assessed at P1,620.00 per square meter and (2) the contribution to be made by plaintiffs-appellees in the maintenance of said road lots, to be determined by both parties.

SO ORDERED.^[19]

Petitioners moved for reconsideration.^[20] The CA, however, denied the same in its March 1, 2010 Resolution^[21] for having been filed out of time.

Hence, this Petition.

Issues

The essential questions to be answered in this Petition are the following: (1) What is the extent of the right of way granted to petitioners under the April 30, 1993 RTC Decision as affirmed by the CA in its February 13, 1996 Decision? (2) Assuming that the subject right of way pertains to the road network in respondent's subdivision, is the CA correct in its assessment of indemnity?

Our Ruling