

SECOND DIVISION

[G.R. No. 196219, July 30, 2014]

SPOUSES MAURICIO M. TABINO AND LEONILA DELA CRUZ-TABINO, PETITIONERS, VS. LAZARO M. TABINO, RESPONDENT.

DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*^[1] seeks to set aside the August 25, 2010 Decision^[2] of the Court of Appeals in CA-G.R. SP No. 107957, entitled "*Lazaro M. Tabino, Petitioner, versus Spouses Mauricio Tabino and Leonila dela Cruz-Tabino, Respondents,*" as well as its March 18, 2011 Resolution^[3] denying reconsideration of the assailed judgment.

Factual Antecedents

Proclamation No. 518^[4] (Proc. 518) excluded from the operation of Proc. 423^[5] – which established the military reservation known as Fort Bonifacio situated in the then municipalities of Pasig, Taguig, Pateros and Parañaque, Province of Rizal and Pasay City – certain portions in said reservation known and identified as *Barangays* Cembo, South Cembo, West Rembo, East Rembo, Comembo, Pembo, and Pitogo, situated in Makati, and declared the same open for disposition in accordance with Republic Act (RA) No. 274,^[6] and RA 730^[7] in relation to the provisions of Commonwealth Act No. 141.^[8]

Among others, Proc. 518 allowed a maximum area of 300 square meters for disposition to any *bona fide* occupants/residents of said *Barangays* Cembo, South Cembo, West Rembo, East Rembo, Comembo, Pembo, and Pitogo who have resided in or occupied such areas on or before January 7, 1986.

In 1985, petitioner Mauricio M. Tabino (Mauricio) – a technical sergeant in the military – and his brother, respondent Lazaro M. Tabino – a colonel in the military – occupied a 353-square meter lot in Pembo, Makati City. Mauricio established residence within the lot, while respondent continued to reside in Novaliches, Quezon City.^[9] The lot was later subdivided into two portions, denominated as Lots 2 and 3, Block 255, Zone 12, Group 10, Sampaguita Extension, Pembo, Makati City.

Lot 2 – containing an area of 184 square meters – was applied for coverage under Proc. 518 by Mauricio, while Lot 3 – containing an area of 169 square meters – was applied for by respondent. Respondent was later on issued by the Fort Bonifacio Post Commander a Revocable Permit^[10] to occupy his lot, but the permit authorized him to occupy an area of only 150 square meters.

In 1988, Lot 3 was awarded to respondent, and a Certificate^[11] to such effect was

issued by the Bureau of Lands (now Land Management Bureau).

On May 11, 2004, respondent filed an ejectment case against Mauricio and the latter's wife, Leonila dela Cruz (petitioners) with the Metropolitan Trial Court of Makati (MeTC). Docketed as Civil Case No. 85043 and assigned to Branch 64, the ejectment case is based on the theory that respondent is the true and sole owner of the 353-square meter lot; that he used Mauricio only for the purpose of circumventing the 300-square meter limit set by Proc. 518 by asking the latter to apply for the purchase of a portion of the lot after subdividing the same into two smaller lots; that Mauricio's stay in the premises is merely by tolerance of respondent; that petitioners introduced permanent structures on the land; and that petitioners refused to vacate the premises upon respondent's formal demand. Respondent thus prayed that petitioners be ordered to vacate Lots 2 and 3 and to pay the former rentals, attorney's fees, and costs of suit.^[12]

Petitioners countered in their Answer^[13] that respondent had no right to eject them; that the parties' true agreement was that petitioners would act as caretakers of respondent's Lot 3, and for this, respondent would pay petitioners a monthly salary of P800.00; that respondent failed to honor the agreement; and that relative to Lot 2, there was a pending Protest filed with the Regional Executive Director of the Department of Environment and Natural Resources (DENR) National Capital Region.

Protests in the Department of Environment and Natural Resources

It appears that petitioners and respondent both filed Protests with the DENR relative to Lots 2 and 3. In a June 13, 2006 Decision, respondent's Protest – docketed as Case No. 2004-821 and entitled "Lazaro M. Tabino, Protestant, versus Mauricio Tabino and Leonila C. Tabino, Protestees" – was resolved as follows:

WHEREFORE, premises considered, the instant Protest should be as it is hereby "DENIED" for lack of merit. The Miscellaneous Sales Application filed by Mauricio Tabino over Lot 2, Block 255, Zone 12, Group 190, Sampaguita St., Pembo, Makati should now be given due course by this Office. x x x^[14]

The DENR held in Case No. 2004-821 that respondent is not qualified to acquire Lot 2 under Proc. 518 since he was already awarded a home lot in Fort Bonifacio, specifically Lot 19, Block 22, Fort Bonifacio (AFPOVAI), Taguig. Moreover, he failed to prove that Mauricio was not a *bona fide* resident/occupant of Lot 2; on the contrary, it has been shown that Mauricio, and not respondent, has been in actual possession and occupation of the lot.

In an August 28, 2007 Order,^[15] the above disposition was reiterated after respondent's motion for reconsideration was denied.

On the other hand, petitioners' Protest, docketed as Case No. 2005-939 and entitled "*Leonila Tabino and Adrian Tabino, Protestants, versus Lazaro Tabino and Rafael Tabino, Respondents*", was resolved in an August 28, 2007 Order,^[16] which decreed

thus –

WHEREFORE, premises considered, the Protest lodged before this Office on 21 January 2005 by Leonila Tabino and Adrian Tabino as against the Application of Lazaro/Rafael Tabino over Lot 3, Blk. 255, Zone 12, Pembo, Makati City is, as it is hereby "GRANTED". As a consequence, the MSA (Unnumbered) of Rafael H. Tabino is hereby CANCELLED and DROPPED from the records of the Office. Thus, the Order dated July 16, 2004 re: Cancellation Order No. 04-032 should be, as it is hereby SET ASIDE. After the finality of this Decision, Claimant-Protestant Adrian Tabino may now file his land application over the subject lot.

SO ORDERED.^[17]

The ruling in Case No. 2005-939 is similar to the pronouncement in Case No. 2004-821: that respondent was disqualified from acquiring any more lots within Fort Bonifacio pursuant to Proc. 518, since he was previously awarded a home lot therein, specifically Lot 19, Block 22, PEMBO, Fort Bonifacio (AFPOVAI), Taguig; that respondent is not a *bona fide* resident/occupant of Lot 3, as he and his family actually resided in Novaliches, Quezon City; and that Mauricio has been in actual possession and occupation of Lot 3 since 1985.

Ruling of the Metropolitan Trial Court

On April 4, 2008, a Decision^[18] was rendered in Civil Case No. 85043, as follows:

The only issue to be resolved in this action to recover possession of the subject property is the question on who is entitled to the physical or material possession of the premises. In ejectment cases, the word "possession" means nothing more than physical possession, not legal possession, in the sense contemplated in civil law.

It is undisputed that the revocable permit extended to the plaintiff was to occupy a parcel of land with an area of 150 square meters. Suffice it to say that beyond the 150 square meters would be contrary to the permit extended to the plaintiff to occupy the lot. Plaintiff therefore, would violate the provisions of the revocable permit if he goes beyond what was specified therein or up to 150 square meters. When the land was declared open pursuant to the provisions of Republic Act No. 274 and Republic Act No. 730 both parties applied in their respective name pursuant to the size of the land which they are permitted. Since then defendants have been in possession of the subject property up to the present pursuant to the permit to occupy the subject land. Furthermore, defendants had acquired the property in their own name, a valid claim to establish possession.

Plaintiff's contention that defendants' stay on the premises is by mere tolerance is devoid of merit. Well-established is the rule that findings of administrative agencies are accorded not only respect but also finality

when the decision or order is not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. The order dated August 28, 2007 by the Department of Environment and Natural Resources affirming its previous decision in Case No. 2004-821 dated June 13, 2006 clearly stating therein that defendants are awardees of Lot 2, Block 255, Zone 12, Sampaguita Street, Pembo, Makati City, are accorded with respect and finality. Truly, defendants are rightful possessors of the subject property.

x x x x

WHEREFORE, above premises considered, the complaint as well as defendants' counterclaim are hereby ordered Dismissed. No costs.

SO ORDERED.^[19]

Ruling of the Regional Trial Court

Respondent appealed before the Makati Regional Trial Court (RTC),^[20] but in a February 19, 2009 Decision^[21] the RTC affirmed the MeTC in toto, thus:

WHEREFORE, premises considered, the decision of the Metropolitan Trial Court Branch 64, Makati City dated April 4, 2008 in Civil Case No. 85043 is hereby AFFIRMED in TOTO.

SO ORDERED.^[22]

The RTC agreed with the MeTC in ruling that respondent is not entitled to possession of the disputed premises on account of the DENR findings in Case Nos. 2005-939 and 2004-821 that petitioners are registered claimants and *bona fide* residents thereof, and have been in open, continuous, exclusive and notorious possession thereof under a *bona fide* claim of ownership, while respondent was permitted to occupy an area of only 150 square meters and not more; petitioner would be in direct violation of his permit if he were to occupy more than the allowed area stated in said permit.

Ruling of the Court of Appeals

Respondent filed his Petition for Review^[23] with the CA, assailing the RTC Decision and insisting that he had a better right of possession since he was the bona fide occupant of the disputed lot and Mauricio was merely his caretaker. He added that in 1994, Mauricio executed an Affidavit^[24] (1994 affidavit) acknowledging that respondent was the true owner of Lot 2 and that he was merely allowed by the latter to occupy the same and introduce improvements thereon; this operated as an admission against interest which may be used against petitioners. Finally, respondent argued that the decision in the DENR Protest is not yet final and executory on account of his pending appeal; thus, the courts may not rely on the findings contained therein.

On August 25, 2010, the CA issued the assailed Decision, which held thus:

WHEREFORE, premises considered, the instant petition for review is GRANTED. The assailed decisions of the RTC and the MeTC are hereby REVERSED and SET ASIDE. The ejectment suit filed by the petitioner against the respondents over Lot Nos. 2 and 3 is GRANTED. Accordingly, the respondents are ordered to vacate the subject premises.

SO ORDERED.^[25]

In reversing the trial court, the CA held that the 1994 affidavit – which petitioners do not dispute – should be taken as an admission by Mauricio that he was merely appointed by respondent as the caretaker of Lot 2, and that respondent is the true possessor and owner thereof. This being the case, petitioners occupy the premises by mere tolerance of respondent, and are bound to the implied promise that they shall vacate the same upon demand. The CA added that while respondent was authorized to occupy only 150 square meters, this was irrelevant since the only issue that must be resolved in an unlawful detainer case is actual physical or material possession, independent of any claim of ownership; since respondent has satisfactorily shown by preponderant evidence that he was in actual possession of Lots 2 and 3, he is entitled to recover the same from petitioners.

The CA also held that while respondent's application for Lot 2 was denied by the DENR in its June 13, 2006 Decision – since he was already an awardee of another lot within Fort Bonifacio, the issue of possession was not touched upon. For this reason, the DENR Decision has no bearing on the unlawful detainer case. Additionally, the DENR rulings are still the subject of appeals, and thus could not have conclusive effect.

Petitioners moved for reconsideration, but in a March 18, 2011 Resolution, the CA stood its ground. Hence, the instant Petition.

Issues

Petitioners raise the following issues:

1. CAN THE FINDINGS OF FACTS BY THE DENR IN RESOLVING CONFLICTING CLAIMS AS TO WHO HAS A BETTER RIGHT OF POSSESSION BETWEEN PETITIONERS AND RESPONDENT OVER SUBJECT PARCELS OF LOT BE NULLIFIED BY THE COURT UNDER AN EJECTMENT CASE?
2. HAS THE COURT VALIDLY ACQUIRED JURISDICTION TO HEAR AND ADJUDICATE ON REVIEW THE FINDINGS OF FACTS BY AN ADMINISTRATIVE BODY WITHOUT HAVING ADMINISTRATIVE REMEDIES FIRST EXHAUSTED?
3. HAS RESPONDENT VIOLATED THE RULE AGAINST FORUM- SHOPPING