

## SECOND DIVISION

[ G.R. No. 179549, June 29, 2010 ]

**LIRIO A. DEANON, REPRESENTED BY ATTORNEY-IN-FACT  
JOCELYN D. ASOR, PETITIONER, VS. MARFELINA C. MAG-ABO,  
RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This is a petition for review on *certiorari*<sup>[1]</sup> of the Decision of the Court of Appeals in CA-G.R. SP No. 97714, dated May 25, 2007, and its Resolution dated August 28, 2007, which denied petitioner's motion for reconsideration. The Decision of the Court of Appeals affirmed the Decision of the Regional Trial Court (RTC) of Pasig City, Branch 161, which held that respondent Marfelina<sup>[2]</sup> C. Mag-abo has a better right of possession of the property involved in this case.

The facts are as follows:

The property involved in this case is a 74-square-meter lot located at No. 181 Bayabas Extension, NAPICO, Manggahan, Pasig City.<sup>[3]</sup>

The records show that the lot is part of the 24,406-square-meter property titled to the Metro Manila Commission (now Metro Manila Development Authority [MMDA]) under Transfer Certificate of Title (TCT) No. PT-96040.<sup>[4]</sup> On October 22, 2002, the MMDA sold the 24,406-square-meter property to the NAPICO Homeowners Association XIII, Inc,<sup>[5]</sup> and a new title, TCT No. PT-119333, was issued in the name of the NAPICO Homeowners Association XIII, Inc.

It appears that the subject property is under the Community Mortgage Program being implemented by the MMDA, the National Housing Authority and the National Home Mortgage Finance Corporation under the socialized housing program of the government.<sup>[6]</sup>

On March 17, 2004, petitioner Lirio A. Deanon filed a Complaint<sup>[7]</sup> for unlawful detainer and ejectment against respondent Marfelina Mag-abo with the Metropolitan Trial Court (MeTC) of Pasig City, Branch 70 (trial court).

Petitioner alleged that respondent occupied the subject property in the year 2000, when it was still owned by Ma. Imelda Eloisa P. Galvan. The lot was then being used by Felizardo Sasi, the caretaker of Galvan. The rights to the said property were offered for sale by Galvan to Sasi, but the sale did not materialize. By virtue of an Agreement dated November 18, 2000, Sasi vacated the lot.

After Sasi vacated the lot, respondent allegedly used the property as her garage

without any permission from Ma. Imelda Eloisa Galvan. Since Galvan was not in need of the premises yet, she allegedly allowed respondent to use the place as a garage. There was no verbal or written lease agreement between Galvan and respondent. Respondent was never charged or assessed for any rental for occupying the property.

On July 28, 2003, Ma. Imelda Eloisa Galvan executed a Waiver<sup>[8]</sup> of her rights over the subject property in favor of petitioner. It was agreed that petitioner would assume payment of the amortization and other incidental costs of the property, which was mortgaged with the National Home Mortgage Finance Corporation.

In a letter<sup>[9]</sup> dated July 28, 2003, Galvan informed the NAPICO Homeowners Association XIII, Inc. that she had transferred her right of ownership over the said lot in favor of petitioner.

On June 5, 2004, petitioner wrote a letter<sup>[10]</sup> to the National Home Mortgage Finance Corporation, requesting for the substitution of the right of ownership for Lot No. 37, Block 9, located at No. 181 Bayabas Extension, NAPICO, Manggahan, Pasig City.

On August 14, 2003, the Board of Directors of the NAPICO Homeowners Association XIII, Inc. issued a Board Resolution<sup>[11]</sup> resolving that the Board would issue a letter of endorsement signed by its President to the National Home Mortgage Finance Corporation for the transfer of rights over the subject property from Galvan to petitioner.

Petitioner alleged that she was required to pay all arrearages of the former owner, Ma. Imelda Eloisa P. Galvan, before the substitution was effected. Such payment was evidenced by a Certification<sup>[12]</sup> issued by NAPICO Homeowners Association XIII, Inc. on January 13, 2004, stating that the account of Galvan had been updated and/or the arrearages thereof had been paid in full by petitioner for the purpose of substitution.

Also on January 13, 2004, petitioner and NAPICO Homeowners Association XIII, Inc., represented by its President, Wilson S. Baltazar, executed a Lease/Purchase Agreement<sup>[13]</sup> over the subject property. The term of the lease was 25 years with a monthly rental of P374.15. The parties agreed that all rental payments would be considered as installment payment for the purchase price of the unit awarded to the lessee.

Meantime on August 14, 2003, petitioner, through her counsel, sent respondent a notice<sup>[14]</sup> that the subject property had been purchased from Ma. Imelda Eloisa Galvan and that respondent was being given 90 days from receipt of the notice within which to vacate the property; otherwise, legal action would be taken against her.

Despite receipt of the notice, respondent refused to vacate the subject property. Petitioner sought the intercession of the *Barangay Lupon* of *Barangay* Manggahan, Pasig City, but the parties failed to reach an amicable settlement of the case. On February 20, 2004, the *Barangay Lupon* issued a Certification<sup>[15]</sup> allowing the

parties to file a complaint in the proper court.

Hence, petitioner filed the Complaint against respondent. Petitioner prayed that after notice and hearing, judgment be rendered directing respondent and all persons claiming rights under her to vacate and surrender the subject premises at No. 181 Bayabas Extension, NAPICO, Manggahan, Pasig City, and to pay petitioner attorney's fees in the amount of P20,000.00 and P2,000.00 per appearance fee and costs of the suit.

In her Answer,<sup>[16]</sup> respondent countered that petitioner had no cause of action against her. She claimed that she acquired the subject property from Ruth Cabrera through a Deed of Transfer and Assignment of Rights dated February 23, 2001. Ruth Cabrera, on the other hand, acquired the property by virtue of a Certificate of Sale dated February 28, 1998.

The allegations of respondent<sup>[17]</sup> showed that the former lot claimants and owner of all the improvements on the subject property were the spouses Dominador Galvan and Ma. Imelda Eloisa Galvan. Dominador Galvan was charged with the crime of Attempted Rape before the RTC of Pasig City, Branch 166, but he was found guilty of the crime of Acts of Lasciviousness. After the decision became final, the RTC, on motion of the victim's mother, issued a Writ of Execution against Dominador Galvan to satisfy the civil indemnity in the amount of P15,000.00.

The deputy sheriff of the RTC of Pasig City, Branch 166 levied on the subject property, referred to as Lot 32, Block 5, Zone 4, Phase 3, located at 181 Bayabas Extension, NAPICO, Manggahan, Pasig City, with Dominador Galvan and his wife Ma. Imelda Eloisa Galvan as lot claimants. At the auction sale conducted by the deputy sheriff, the Galvans' rights over the subject property was purchased by Ruth Cabrera in the amount of P15,000.00. A certificate of sale was issued in the name of Ruth Cabrera, and she acquired Galvan's rights over the subject property as no redemption appeared to have been made within the reglementary period provided under Section 33, Rule 39 of the Rules of Court.

Sometime in 1999, Ruth Cabrera filed an unlawful detainer case with the MeTC of Pasig City, Branch 68 against the spouses Galvan, entitled *Ruth Cabrera v. Spouses Dominador Galvan and Ma. Imelda Eloisa P. Galvan, Spouses John Doe Sase and Marissa Sase*.<sup>[18]</sup>

On August 30, 2000, the MeTC of Pasig City, Branch 68 ruled in favor of Ruth Cabrera. The dispositive portion of the MeTC's Decision states:

Wherefore, premises considered, judgment is hereby rendered for herein plaintiff and against herein defendants, ordering the latter and all those claiming rights under them to vacate and surrender possession of the subject property; ordering defendants to pay P1,000.00 a month as reasonable compensation for their continued occupation of the subject property from April 1999 until the time they and all those claiming rights under them shall have completely vacated the property; to pay attorney's fees in the amount of P5,000.00 and the costs of suit.<sup>[19]</sup>

Defendants spouses Galvan and spouses Sase appealed the Decision of the MeTC of Pasig City, Branch 68 to the RTC of Pasig City, Branch 267. In a Decision dated May 9, 2001, the appellate court affirmed *in toto* the decision of the lower court. No appeal was made; hence, the decision became final and executory.

On November 27, 2003, the MeTC of Pasig City, Branch 68 issued an Order<sup>[20]</sup> granting the motion for issuance of a writ of execution filed by plaintiff Ruth Cabrera. Hence, defendants spouses Galvan and the spouses Sase were ejected from the subject property.

Meantime, on February 23, 2001, Ruth Cabrera,<sup>[21]</sup> through a Deed of Transfer and Assignment of Rights,<sup>[22]</sup> conveyed to respondent all her rights and interest over the Certificate of Sale covering the subject property. Thereafter, respondent took possession and control of the property.

Hence, respondent prayed that the Complaint be dismissed for lack of cause of action.

In a Decision dated December 15, 2005, the trial court ruled in favor of petitioner. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against defendant Marfelina Mag-abo in the following manner:

- 1) Ordering the defendant and all persons claiming rights under her to vacate and surrender the peaceful possession of the premises located at No. 181 Bayabas Extension, NAPICO, Manggahan, Pasig City;
- 2) Ordering the defendant to pay plaintiff the sum of P20,000.00 as and by way of attorney's fees; and
- 3) Ordering the defendant to pay the costs of suit.<sup>[23]</sup>

The trial court held that petitioner was able to establish, by preponderance of evidence, a case for repossession. It held that no right was ever transferred to respondent by Ruth Cabrera. It pointed out that petitioner requested for a certified true copy of the Deed of Transfer and Assignment of Rights at the Notarial Section of the Makati Regional Trial Court, but no such copy was submitted, showing that there was no available record of the same.

The trial court stated that the Decisions of the MeTC of Pasig City, Branch 68 and the RTC of Pasig, Branch 267 in the unlawful detainer case entitled *Ruth Cabrera v. Spouses Dominador Galvan and Ma. Imelda Eloisa P. Galvan, Spouses John Doe Sase and Marissa Sase*, which Decisions respondent attached to her Answer, could not be used to conclude that there was a right transferred or assigned to her. When petitioner asked the former owner about the alleged Certificate of Sale in the name of Ruth Cabrera, she was given copies of the appeal papers.

The trial court gave credence to petitioner's evidence showing that the subject lot is part of the property of the MMDA under TCT No. PT-96040, which property was sold to the NAPICO Homeowners Association XIII, Inc., and a new title, TCT No. PT-119333, was subsequently issued in the name of the said association.

The trial court stated that petitioner has never known any other owner of the subject property aside from Ma. Imelda Eloisa Galvan. Moreover, Ma. Imelda Eloisa Galvan was the one registered as owner- awardee by the Association. After the approval of the substitution, the President of the NAPICO Homeowners Association XIII, Inc. issued a Certification dated May 20, 2004, which stated that petitioner, in place of the former owner Ma. Imelda Eloisa Galvan, has acquired the said lot. Hence, the trial court concluded that petitioner may demand that she be placed in possession of the property, because possession is a mere consequence of ownership.

Respondent appealed the trial court's decision to the RTC of Pasig City, Branch 161.

On August 18, 2006, the RTC reversed the trial court's decision. The dispositive portion of the Decision states:

WHEREFORE, in view of all the foregoing, the APPEALED DECISION is hereby REVERSED and SET ASIDE. Civil Case No. 7813 is ordered DISMISSED.<sup>[24]</sup>

The RTC held that the evidence on record showed that prior to the transfer of rights by Ma. Imelda Eloisa Galvan to petitioner, the subject property was already transferred to respondent through a Deed of Transfer and Assignment of Rights executed by Ruth Cabrera-Mendoza, who was able to obtain the property by virtue of a Certificate of Sale dated February 28, 1998 pursuant to a Writ of Execution dated February 6, 1998. This fact was already established in the Decisions of the MeTC of Pasig City, Branch 68, and the RTC of Pasig City, Branch 267 in the case for ejectment, entitled *Ruth Cabrera v. Spouses Dominador Galvan and Ma. Imelda Eloisa P. Galvan, Spouses John Doe Sase and Marissa Sase*.

The RTC stated that Galvan's failure to file an appeal of the decision of the RTC of Pasig City, Branch 267 rendered the said decision final and executory. By virtue of a Writ of Execution, the spouses Dominador Galvan and Ma. Imelda Eloisa Galvan, and the spouses John Doe Sase and Marissa Sase were ejected from the subject property; thus, Ruth Cabrera was able to gain possession of the same. Ruth Cabrera turned over the possession and control of the property to respondent by virtue of the Deed of Transfer and Assignment of Rights.

The RTC held that respondent's possession of the property is in the concept of an owner, and not by mere tolerance of Ma. Imelda Eloisa Galvan. Galvan did not have any right to transfer the property to petitioner in July 2003, since she knew of the two Decisions of the MeTC of Pasig City, Branch 68 and the RTC of Pasig City, Branch 267.

Further, the RTC held that the case should be dismissed on the ground of *res judicata*. The requisites of *res judicata* are: (1) there must be a former final