

THIRD DIVISION

[G.R. No. 159230, October 18, 2010]

B.E. SAN DIEGO, INC., PETITIONER, VS. COURT OF APPEALS AND JOVITA MATIAS, RESPONDENTS.

DECISION

BRION, J.:

Petitioner B. E. San Diego, Inc. (*B.E. San Diego*) filed before the Court a petition for review on *certiorari*^[1] assailing the September 25, 2002 decision^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 50213. The CA decision reversed the June 22, 1995 decision^[3] of the Regional Trial Court (RTC) of Malabon, Branch 74, in Civil Case No. 1421-MN.^[4] The RTC in turn granted the complaint for recovery of possession^[5] instituted by B. E. San Diego against private respondent Jovita Matias (*Matias*).

THE FACTS

B.E. San Diego alleged that it is the registered owner of a parcel of land (*subject property*) located in Hernandez Street, Catmon, Malabon, covered by Transfer Certificate of Title (TCT) No. T-134756 of the Register of Deeds of Caloocan, and delineated as Lot No. 3, Block No. 13, with an area of 228 square meters. B. E. San Diego claimed that Matias has been occupying the subject property for over a year without its authority or consent. As both its oral and written demands to vacate were left unheeded, B. E. San Diego filed a **complaint for the recovery of possession** of the subject property against Matias on March 15, 1990 before the RTC.^[6]

In her answer to the complaint, Matias alleged that she and her family have been living on the subject property since the 1950s on the basis of a written permit issued by the local government of Malabon in 1954.^[7] Matias stated that she and her family have introduced substantial improvements on the subject property and have been regularly paying realty taxes thereon. She further claimed that she is a legitimate beneficiary of Presidential Decree (PD) No. 1517^[8] and PD No. 2016,^[9] which classified the subject property as part of the Urban Land Reform Zone (ULRZ) and an Area for Priority Development (APD).

More importantly, she questioned B. E. San Diego's claim over the subject property by pointing out that the title relied on by B. E. San Diego (TCT No. T-134756) covers a property located in Barrio *Tinajeros*, Malabon, while the subject property is actually located in Barrio *Catmon*, Malabon. Matias thus claimed that the property she is occupying in Barrio Catmon is different from the property that B. E. San Diego seeks to recover in the possessory action before the RTC.^[10]

The RTC found no issue as to the identity of the property, ruling that the property

covered by B. E. San Diego's TCT No. T-134756, located in Barrio Tinajeros, is the same property being occupied by Matias, located in Barrio Catmon. The RTC took judicial notice of the fact that Barrio Catmon was previously part of Barrio Tinajeros. It found that the Approved Subdivision Plan and tax declarations showed that the subject property is located in Barrio Catmon, Malabon. The RTC thus declared that B. E. San Diego sufficiently proved its right to recover possession of the subject property on the basis of its TCT No. T-134756. As opposed to B. E. San Diego's clear right, it found Matias' claimed of possession over the subject property as a long-time occupant and as a beneficiary of PD Nos. 1517 and 2016 unfounded. [11]

On appeal, the CA disagreed with the RTC's findings. It considered the discrepancy in the location significant and declared that this should have prompted the RTC to require an expert witness from the concerned government agency to explain the matter. Since it was undisputed that Matias was in actual possession of the subject property at the time of the filing of the complaint, the CA declared that her possession should have been upheld under Article 538 of the Civil Code. [12] The CA also upheld Matias' possession based on PD Nos. 1517 and 2016. [13]

As its motion for reconsideration of the CA's judgment was denied, [14] B. E. San Diego filed the present petition for review on *certiorari* under Rule 45 of the Rules of Court.

THE PETITION FOR REVIEW ON CERTIORARI

B. E. San Diego contends that the CA erred in reversing the RTC's finding on the sole basis of a discrepancy, which it claims has been explained and controverted by the evidence it presented. It assails the CA decision for failing to consider the following evidence which adequately show that the property covered by its TCT No. T-134756 is the same property occupied by Matias:

- a. TCT No. T-134756 issued in the name of B. E. San Diego, covering a property delineated as Lot No. 3, Block No. 13;
- b. Approved Subdivision Plan showing Lot No. 3, Block No. 3 is situated in Barrio Catmon, Malabon;
- c. Tax Declaration No. B-005-00296 issued in the name of B. E. San Diego, referring to a property covered by TCT No. T-134756;
- d. Testimonial evidence of B. E. San Diego's witness that the property described in TCT No. T-134756 is the same property occupied by Matias; and
- e. Judicial notice taken by the RTC of Malabon, based on public and common knowledge, that Barrio Catmon was previously part of Barrio Tinajeros, Malabon.

B. E. San Diego also alleges that Matias is estopped from alleging that the property she is occupying is different from the property covered by its TCT No. T-134756. Matias previously moved to dismiss its complaint for recovery of possession of the subject property (*accion publiciana*), raising *res judicata* as ground. [15] She alleged that the *accion publiciana* [16] is barred by the judgment in an earlier ejectment

case,^[17] as both involved the same parties, the *same subject matter*, and the same cause of action. The ejectment case involved a parcel of land covered by TCT No. T-134756, located at Hernandez Street, Barrio Catmon, Malabon; Matias never questioned the identity and location of the property in that case.^[18] B. E. San Diego thus contends that Matias, by raising the ground of *res judicata*, has impliedly admitted there is no difference in the subject matter of the two actions and, thus, could no longer question the identity and location of the subject property.

In controverting B. E. San Diego's petition, Matias relies on the same points that the CA discussed in its decision.

THE COURT'S RULING

The Court finds the petition **meritorious**.

From the errors raised in the petition, what emerges as a primary issue is the **identity of the subject matter of the case - *whether the subject property that Matias occupies is the same as the property covered by B. E. San Diego's title.*** Our reading of the records discloses that the two are one and the same.

B. E. San Diego's TCT No. T-134756 refers to a property located in Barrio Tinajeros, Malabon, but the subject property sought to be recovered from Matias is in Barrio Catmon, Malabon. In ruling for Matias, the CA declared that this discrepancy should have been explained by an expert witness, which B. E. San Diego failed to present.

The Court, however, does not find the testimony of an expert witness necessary to explain the discrepancy. The RTC declared that the discrepancy arose from the fact that Barrio Catmon was previously part of Barrio Tinajeros. The RTC has authority to declare so because this is a matter subject of mandatory judicial notice. Section 1 of Rule 129 of the Rules of Court^[19] includes geographical divisions as among matters that courts should take judicial notice of. Given that Barrio Tinajeros is adjacent to Barrio Catmon,^[20] we find it likely that, indeed, the two barrios previously formed one geographical unit.

Even without considering judicial notice of the geographical divisions within a political unit, sufficient evidence exists supporting the RTC's finding that the subject property B. E. San Diego seeks to recover is the Barrio Catmon property in Matias' possession. TCT No. T-134756 identifies a property in Barrio Tinajeros as Lot No. 3, Block No. 13. Although B. E. San Diego's tax declaration refers to a property in Barrio Catmon, it nevertheless identifies it also as Lot No. 3, Block No. 13, covered by the same TCT No. T-134756. Indeed, both title and the tax declaration share the same boundaries to identify the property. With this evidence, the trial court judge can very well ascertain the facts to resolve the discrepancy, and dispense with the need for the testimony of an expert witness.^[21]

Additionally, we agree with B. E. San Diego that Matias can no longer question the identity of the property it seeks to recover when she invoked *res judicata* as ground to dismiss the *accion publiciana* that is the root of the present petition. An allegation of *res judicata* necessarily constitutes an admission that the subject matter of the pending suit (the *accion publiciana*) is the same as that in a previous

one (the ejectment case).^[22] That Matias never raised the discrepancy in the location stated in B.E. San Diego's title and the actual location of the subject property in the ejectment suit bars her now from raising the same. Thus, the issue of identity of the subject matter of the case has been settled by Matias' admission and negates the defenses she raised against B. E. San Diego's complaint.

We then proceed to resolve the core issue of the *accion publiciana* -**who between the parties is entitled possession of the subject property.** Notably, the judgment in the ejectment suit that B. E. San Diego previously filed against Matias is not determinative of this issue and will not prejudice B. E. San Diego's claim.^[23] While there may be identity of parties and subject matter, there is no identity of cause of action between the two cases; an action for ejectment and *accion publiciana*, though both referring to the issue of possession, differ in the following manner:

First, forcible entry should be filed within one year from the unlawful dispossession of the real property, while *accion publiciana* is filed a year after the unlawful dispossession of the real property. Second, **forcible entry is concerned with the issue of the right to the physical possession of the real property; in *accion publiciana*, what is subject of litigation is the better right to possession over the real property.** Third, an action for forcible entry is filed in the municipal trial court and is a summary action, while *accion publiciana* is a plenary action in the RTC.^[24]

B. E. San Diego anchors its right to possess based on its ownership of the subject property, as evidenced by its title. Matias, on the other hand, relies on (1) the 1954 permit she secured from the local government of Malabon, (2) the Miscellaneous Sales Application, (3) the tax declarations and realty tax payments she made annually beginning 1974, (4) her standing as beneficiary of PD Nos. 1517 and 2016, and (5) her long possession of the subject property since 1954 up to the present. Unfortunately for Matias, her evidence does not establish a better right of possession over B. E. San Diego's ownership.

The settled doctrine in property law is that no title to register land in derogation of that of the registered owner shall be acquired by prescription or adverse possession.^[25] Even if the possession is coupled with payment of realty taxes, we cannot apply in Matias' case the rule that these acts combined constitute proof of the possessor's claim of title.^[26] Despite her claim of possession since 1954, Matias began paying realty taxes on the subject property only in 1974 - when B. E. San Diego filed an ejectment case against her husband/predecessor, Pedro Matias.^[27] Considering these circumstances, we find Matias' payment of realty taxes suspect.

Matias cannot rely on the Miscellaneous Sales Application and the local government permit issued in her favor; neither establishes a clear right in favor of Matias over the subject property. A sales application, in the absence of approval by the Bureau of Lands or the issuance of a sales patent, remains simply as an application that does not vest title in the applicant.^[28] The local government permit contained only a statement of the local executive that the case between the local government and