

## SECOND DIVISION

**[ G.R. No. 170247, September 17, 2008 ]**

**HEIRS OF BENJAMIN MENDOZA, NAMELY: PACITA MENDOZA, VICTOR MENDOZA, JOSE MENDOZA, CESAR MENDOZA, EFREN MENDOZA, EDUARDO MENDOZA, EDNA MENDOZA AND BEVERLY MENDOZA, PETITIONERS, VS. THE HON. COURT OF APPEALS AND J.A. DEVELOPMENT CORP., RESPONDENTS.**

### DECISION

**TINGA, J.:**

Petitioners assail the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 75607 dated 23 January 2004, and its Resolution<sup>[2]</sup> dated 27 October 2005, for want of jurisdiction. The assailed decision reversed and set aside the Decision<sup>[3]</sup> dated 13 December 2002 of the Regional Trial Court (RTC) of Tagaytay City, Branch 18 which in turn affirmed the Decision<sup>[4]</sup> dated 18 December 2001 of the Municipal Trial Court in Cities (MTCC) of Tagaytay City, Branch 1 dismissing the complaint for unlawful detainer<sup>[5]</sup> filed by respondent J.A. Development Corp.

The Court of Appeals culled the following facts from the records:

On August 20, 2001, petitioner J.A. Development Corporation, (hereafter referred to as petitioner), filed a complaint against Benjamin Mendoza, John Does and Jane Does (hereafter referred to as respondents) for unlawful detainer with the Municipal Trial Court, Tagaytay City. The complaint states that petitioner, by reason of the purchase of the property in litigation in 1992, is the valid, lawful, and registered owner of Lot Nos. 1993A-2; 1993-B-2; 1993-B-7; 1993-B-12; and 1993-B-13 covered by Transfer Certificate of Title (TCT) Nos. T-26609; T-26610; T-26611; T-26612; and T-26613, respectively; that petitioner is also the owner of Lot 1993-B-14 covered by TCT No. T-16586 still in the name of petitioner's predecessor-in-interest; that all of the lots are located in Barangay Dapdap and Barangay Calabuso, Tagaytay City; that sometime after the purchase, petitioner noted the occupation thereof by respondents on the subject property which was previously tolerated by petitioner's predecessor-in-interest; that petitioner informed respondents it now owns the subject property and that respondents do not have any right to occupy the same; that petitioner offered respondents, through respondent Benjamin Mendoza, the amount of Fifty Thousand Pesos (P50,000.00) to facilitate their departure from the property; that despite receipt of the amount, respondents refused to vacate the same; that respondent Benjamin Mendoza executed for and in behalf of the respondents, a *kasunduan* dated August 26, 1994 acknowledging petitioner's ownership of the property; that despite the execution of the *kasunduan*, respondents did not vacate the subject property and

requested they be allowed to stay until petitioner needed the property; that in 1999, petitioner demanded the turnover of the property for development of the same; that respondents refused to do so and declared they are no longer honoring the *kasunduan*; that respondents allowed several strangers to occupy the property; that petitioner sent two demand letters dated October 29, 1999 and December 2, 2000, respectively, ordering them to vacate the property; and that despite receipt thereof, respondents refused to vacate and surrender the same.

Respondent Benjamin Mendoza filed his answer with special defenses and counterclaim dated August 28, 2001. Respondent posited that he is the owner of the subject property, being the heir of one of the equitable owners thereof by virtue of the Friar Land Act or Act No. 1120 as evidenced by Sales Certificate No. 2933 executed by the Bureau of Lands; that the Transfer Certificates of Title under petitioner's name are null and void, being derived from TCT No. 2079 (1216) which was spuriously borne out of a fictitiously reconstituted TCT No. 1858 (21877) in violation of Act No. 1120 and PD No.1529.

Further, respondent and his ancestors have been in actual possession of the subject property since 1914 as shown in the Order dated January 11, 2000 of Branch 18, Regional Trial Court, Tagaytay City in Civil Case No. TG-1904 (Quieting of Title and Cancellation of Certificates of Title and Damages); that the Partial Decision dated February 18, 2000 issued by the same court particularly placed the respondent as heir of the equitable owner of the subject property; that the issue of possession is inextricably intertwined with the issue of ownership since petitioner derived its alleged ownership through the TCTs issued in its name; that the case is dismissible on the ground of *litis pendentia* since the right of possession and issue of ownership have already been established in Civil Case No. TG-1904 before the Regional Trial Court; that the petitioner never alleged prior physical possession of the subject property; that there is a pending motion for writ of preliminary injunction dated July 25, 2001 praying for petitioner to refrain from harassing respondents to give up possession, from cultivating, planting, harvesting crops, and residing in the subject property; and damages.

On October 21, 2001, petitioner filed its pre-trial brief adding that respondents, by virtue of the *kasunduan*, expressly recognized absolute ownership over the property; that respondents never mentioned any claim of ownership at the time of the execution of the *kasunduan*; and that the Court of Appeals, in CA GR SP No. 60770 entitled J.A. Development Corp. vs. Hon. Alfonso S. Garcia, et al., in its Decision dated August 29, 2001 set aside the Partial Decision dated February 18, 2000 for being issued with grave abuse of discretion.

The Municipal Trial Court issued a Decision dated December 18, 2001, dismissing the complaint for lack of jurisdiction on the ground that the issue of possession cannot be determined without dwelling into the issue of ownership. The dispositive portion reads: