

## THIRD DIVISION

[ G.R. No. 177505, November 27, 2008 ]

**HEIRS OF GORGONIO MEDINA, NAMELY: LEONOR T. MEDINA, RAMON T. MEDINA, ABIEL T. MEDINA, ILUDIVINA M. ROSARI, CONCEPCION DE LA CRUZ, LEONOR M. BAKKER, SAMUEL T. MEDINA, VICTOR T. MEDINA, TERESITA M. SABADO, JOSEFINA M. CANAS AND VERONICA M. DE GUZMAN. PETITIONERS, VS. BONIFACIO NATIVIDAD, REPRESENTED BY PHILIP M. NATIVIDAD, RESPONDENT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure which seeks to set aside the Decision<sup>[1]</sup> of the Court of Appeals dated 20 November 2006 in CA-G.R. CV No. 82160 affirming with modification the Decision<sup>[2]</sup> of Branch 33 of the Regional Trial Court (RTC) of Guimba, Nueva Ecija, in Civil Case No. 1165-G and its Resolution<sup>[3]</sup> dated 16 April 2007 denying petitioners' motion for reconsideration.

The factual antecedents are as follows:

On 16 May 1969, Tirso Medina, Pacifico M. Ruiz, Gorgonio D. Medina, Vivencio M. Ruiz, and Dominica Medina, co-owners of a parcel of land (Lot 1199, Cad-162, Guimba Cadastre, plan Ap-23418) situated in Poblacion, Municipality of Guimba, Province of Nueva Ecija, containing an area of two thousand three hundred thirty nine (2,339) square meters, agreed to divide and allot for themselves the said land. A sketch<sup>[4]</sup> signed by the co-owners showed the respective portions of land allotted to each. Gorgonio D. Medina received two portions of said land. One portion was allotted to him alone, while the second portion was allotted to him together with Tirso Medina and Pacifico M. Ruiz. This second portion is labeled as "Gorgonio Medina, Tirso Medina and Pacifico M. Ruiz" which is adjacent to the portion labeled as "Dominica Medina."

On 29 March 1972, Gorgonio D. Medina, predecessor-in-interest of petitioners, executed a Deed of Absolute Sale<sup>[5]</sup> whereby he sold to respondent Bonifacio Natividad for P2,000.00 his share (1/3) in the second portion of land including the improvements found therein.

Subsequently, a case for Partition with Damages, docketed as Civil Case No. 781-G, was filed before the RTC of Guimba, Nueva Ecija, Branch 33, by Tirso Medina against the co-owners of Lot 1199, among whom are Gorgonio Medina and Bonifacio Natividad. Bonifacio Natividad had likewise already bought the share of Dominica Medina in the land.

The parties entered into a compromise agreement which they submitted to the Court. On 20 November 1989, the RTC approved the agreement and rendered its decision based on the same.<sup>[6]</sup> The Compromise Agreement as quoted by the Court reads:

#### COMPROMISE AGREEMENT

COME NOW the parties, assisted by their respective counsel(s), and unto this Honorable Court respectfully submit this Compromise Agreement in full and final settlement of their differences, to wit:

1. The parties herein are the exclusive co-owners of that certain parcel of land located at the Poblacion, Guimba, Nueva Ecija, known as Lot 1199, Guimba Cadastre and more particularly described as follows:

A parcel of land (Lot 1199, of the Cadastral Survey of Guimba Cad. 162, plan Ap-23418, L.R. Case No. G-51, L.R.C. Record No. N-40711), situated in the Poblacion, Municipality of Guimba, Province of Nueva Ecija. x x x containing an area of TWO THOUSAND THREE HUNDRED AND THIRTY NINE (2,339) SQUARE METERS, more or less. x x x.

x x x x

2. The herein parties recognize and acknowledge that their respective shares in the property aforementioned as appearing in the aforesaid Original Certificate of Title No. 130366 have been modified by agreement between them to allot a portion thereof to their co-owner, Vivencio M. Ruiz, to compensate for valuable services rendered to the parties vis-à-vis the said property, separate and apart from his rightful share therein as participating heir of Maria Medina;
3. The plaintiff Tirso Medina hereby withdraws any/all statements appearing on record which he may have made in said case in the course of his testimony therein, and hereby asks the Honorable Court that said statements be expunged or withdrawn from the record;
4. The foregoing considered, the parties have determined that it is to their mutual convenience and advantage, and in accord with their common desire to preserve and maintain the existing family harmony and solidarity to terminate their present community of ownership in the property aforementioned by mutual agreement and adjudication, in the manner appearing in the Sketch Plan of Partition attached as an integral part hereof as Annex "A" where the property is subdivided into Lot 1, 2, 3, 4, 5, and 6 and adjudicated, as follows:
  - a. To Bonifacio Natividad, Lot No. 1, consisting of 480 square meters, more or less, representing the interests of Dominica

Medina which was sold to him per document of "Sale of Rights, Waiver and Renunciation" appearing as Doc. No. 367; Page No. 75; Book No. 10; Series of 1968 in the Notarial Register of Atty.

- b. To VIVENCIO M. RUIZ, Lot No. 3 consisting of 370.21 square meters, more or less, as compensation for valuable services rendered; free and clear from any/all liens or encumbrances whatsoever or from the claims of any person whomsoever, except the present tenant/s thereon;
- c. To the heirs of MARIA MEDINA, Lot No. 2 consisting of 370.21 square meters, more or less, without prejudice to sales and dispositions already made by the respective heirs of their interests and participations therein;
- d. To TIRSO MEDINA, Lot No. 4 consisting of 369.29 square meters, more or less;
- e. To the heirs of PACIFICO M. RUIZ, Lot No. 5 consisting of 369.29 square meters, more or less, and
- f. To GORGONIA MEDINA, Lot No. 6, consisting of 369.29 square meters, more or less.<sup>[7]</sup>

On 8 October 1991, the trial court issued an order supplementing its decision dated 20 November 1989 which reads in part:

[T]hat the parties thereafter, engaged the services of one common geodetic engineer in the person of Rolly Francisco to conduct the survey and effect the subdivision of Lot 1199, which was subdivided into Lots A, B, C, D, E, and F, the area of which appears, thus:

Lot 1199-A with an area of 371 sq. ms., which lot now corresponds to Lot No. 4 adjudicated to Tirso Medina;

Lot 1199-B with an area of 371 sq. ms., which lot now corresponds to Lot No. 5 adjudicated to Pacifico Ruiz;

Lot 1199-C with an area of 371 sq. ms., which lot now corresponds to Lot No. 6 adjudicated to Gorgonio Medina;

Lot 1199-D with an area of 482 sq. ms., which lot now corresponds to Lot No. 1 adjudicated to Bonifacio Natividad;

Lot 1199-E with an area of 372 sq. ms., which lot now corresponds to Lot No. 2 adjudicated to Heirs of Maria Medina; and

Lot 1199-F with an area of 372 sq. ms., which lot now corresponds to Lot No. 3 adjudicated to Vivencio M. Ruiz; that in this subdivision made by the geodetic engineer, there was no change in the designation of the particular places adjudicated to the parties, except the change in areas

allotted after the actual survey made.

WHEREFORE, finding the motion to be in order, the Court resolves to grant the same and hereby orders, that:

Lot 1199-A with an area of 371 sq. ms. is Lot 4, decision, adjudicated to Tirso Medina;

Lot 1199-B with an area of 371 sq. ms. is Lot 5, decision, adjudicated to Pacifico Ruiz;

Lot 1199-C with an area of 371 sq. ms. is Lot 6, decision, adjudicated to Gorgonio Medina;

Lot 1199-D with an area of 482 sq. ms. is Lot 1, decision, adjudicated to Bonifacio Natividad;

Lot 1199-E with an area of 372 sq. ms. is Lot 2, decision, adjudicated to Heirs of Maria Medina;

Lot 1199-F with an area of 372 sq. ms. is Lot 3, decision, adjudicated to Vivencio M. Ruiz.

This Order supplements the Decision dated November 20, 1989.<sup>[8]</sup>

Pursuant to the court-approved partition, Lot 1199-C, measuring 371 square meters, was registered in the name of Gorgonio Median for which Transfer Certificate of Title (TCT) No. NT-230248 of the Registry of Deeds for the Province of Nueva Ecija was issued to him.<sup>[9]</sup>

On 11 June 2001, Bonifacio Natividad, thru his alleged Attorney-In-Fact, Philip M. Natividad, filed before the RTC of Guimba, Nueva Ecija, Branch 31, a Complaint for Annulment of TCT No. NT-230248 and Damages.<sup>[10]</sup> It impleaded as respondents Abiel Medina and Veronica de Guzman who are occupying the said land. Bonifacio asks, among other things, that 1/3 of said land be surrendered to him because he had bought the same from Gorgonio Medina. In the Answer<sup>[11]</sup> filed by Abiel Medina and Veronica de Guzman, they argued, *inter alia*, that Philip Natividad had no legal capacity to sue because the Special Power of Attorney annexed to the Complaint did not grant him such authority. They further added that the Complaint failed to implead all the parties-in-interest considering that the ownership of the land covered by TCT No. NT-230248 had already passed to eleven heirs of Gorgonio Medina.

Bonifacio, thru Philip, filed a Motion for Bill of Particulars<sup>[12]</sup> praying that an order be issued by the court directing Abiel Medina and Veronica de Guzman to give the names and present addresses of all the heirs of Gorgonio Medina. Said motion was opposed.<sup>[13]</sup> In an order dated 15 October 2001, the trial court granted the motion.<sup>[14]</sup> Defendants complied with the court's order and submitted the names and addresses of all the heirs of Gorgonio Medina.<sup>[15]</sup>

On 7 January 2002, Bonifacio filed a Motion for Leave to Admit Amended Complaint with prayer that summons upon eight heirs be made through publication.<sup>[16]</sup> The Amended Complaint impleaded all the heirs of Gorgonio Medina (petitioners herein). In said amended complaint, a special power of attorney<sup>[17]</sup> dated 21 September 2001 allegedly executed by Bonifacio Natividad in the State of Washington, United States of America, and acknowledged before Phyllis Perry, a Notary Public of the State of Washington, USA, was attached authorizing Philip Natividad to:

1. To file all appropriate cases in court against the heirs of Gorgonio Medina for the recovery of the lot that I purchased from said Gorgonio Medina by virtue of Deed of Absolute Sale executed on March 29, 1972 and notarized by Atty. Inocencio B. Garampil under Doc. No. 435, Page No. 87, Book No. 1, Series of 1972, which lot is now titled in the name of Gorgonio Medina under Transfer Certificate of Title No. NT-230248;
2. To institute all legal actions/cases in court for the annulment of said Transfer Certificate of Title No. NT -230248 which now covers the lot I bought from Gorgonio Medina;
3. To represent me in all proceedings/hearings of the above-mentioned case/s up to its termination;
4. To enter into a fair and reasonable compromise agreement and do all acts for the protection and preservation of my rights and interest over the above-mentioned lot;
5. To negotiate/transact with all persons, secure and sign all necessary documents for the attainment of the above purposes.

In an Order dated<sup>[18]</sup> 30 January 2002, the trial court approved the motion and admitted the Amended Complaint. It directed the issuance of the corresponding summons, the same to be published in a newspaper of general circulation for three consecutive weeks. As to plaintiff's authority to sue, the trial court ruled that said issue had been settled by the special power of attorney attached to the Amended Complaint.

On 17 May 2002, the heirs of Gorgonio Medina filed a Motion to Dismiss<sup>[19]</sup> which the trial court denied on 20 August 2002.<sup>[20]</sup> On 10 September 2002, the heirs filed their Answer raising the following defenses: prescription, laches, lack of cause of action, lack of legal capacity to sue by Attorney-in-Fact, indefeasibility of TCT No. NT-230248 and lack of jurisdiction over the case for failure of the plaintiff to comply with the mandatory requirement of the *Katarungang Pambarangay*. Plaintiff filed his Reply dated 18 September 2002 specifically denying the allegations contained in the Answer with Compulsory Counterclaim.<sup>[21]</sup>

During the Pre-Trial, the parties stipulated the following facts and issues:

- a. TCT No. N-230248 in the name of Gorgonio Medina covers 371 square meters. This title was one of the titles issued as transfer