

FIRST DIVISION

[G.R. NO. 142594, June 26, 2007]

HEIRS OF WENCESLAO SAMPER AND HERMOGENA RECIPROCO-SAMPER, REPRESENTED BY GAUDENCIO R. SAMPER, PURIFICACION R. SAMPER AND ROSARIO R. SAMPER, PETITIONERS, VS. DULCE RECIPROCO-NOBLE, ROGELIO RECIPROCO AND VICKY R. ADRESOLA, AS HEIRS OF ANGEL M. RECIPROCO, RESPONDENTS.

D E C I S I O N

GARCIA, J.:

In this petition for review, the Court is being asked to set aside the 30 June 1999 Decision^[1] and 7 March 2000 Resolution^[2] of the Court of Appeals (CA) in *CA-G.R. SP No. 43239* where the CA dismissed the petitioners' original petition for the annulment of the summary judgment rendered by the Regional Trial Court (RTC) of Iriga City, Branch 35, in its *Civil Case No. IR-2403*, an action for recovery of possession and damages thereat filed by the herein respondents against the petitioners' mother, Hermogena Reciproco-Samper.

The facts:

The suit is a dispute among relatives, in fact first cousins. Petitioners are the children of the spouses Wenceslao Samper and Hermogena Reciproco-Samper. On the other hand, respondents are the children of Hermogena's brother, Angel M. Reciproco. Hermogena and Angel were children of Narciso Reciproco, grandfather of both petitioners and respondents. Subject of the dispute is a 146-square meter residential land located in San Roque, Bahi, Camarines Sur.

Sometime in 1958, the spouses Wenceslao Samper and Hermogena Reciproco-Samper (*Hermogena*) allegedly acquired and thereafter took actual possession of the subject property from her father, Narciso Reciproco.

In February 1974, Hermogena's brother, Angel M. Reciproco (*Angel*), filed a verified application^[3] for Free Patent with the Bureau of Lands. By virtue of said application, Original Certificate of Title (OCT) No. 29014 covering the subject property was issued in his name.

On 19 December 1991, in the RTC of Iriga City, Angel's children, herein respondents Dulce Reciproco-Noble, Rogelio Reciproco and Vicky Reciproco-Adresola (Heirs of *Angel*), filed a **complaint for recovery of possession and damages** against their aunt Hermogena involving the subject property. In their complaint, docketed in the same court as *Civil Case No. IR-2403*, the heirs of *Angel*, as plaintiffs, substantially alleged that upon the mere permission and tolerance of their father, *Hermogena* was allowed to occupy the subject property for free with the understanding that she

would vacate and surrender its possession if and when her brother *Angel* or the latter's successors-in-interest already needed it; and that despite demand to vacate the property because they, as children of *Angel*, already needed it, *Hermogena* failed and refused to comply.

On 20 February 1992, *Hermogena*, as defendant in the case, filed her answer, claiming that she was the owner of the subject property by virtue of an "*scritura de Compra-Venta*"^[4] allegedly executed on 20 February 1958 in her and her husband's favor by her father, Narciso Reciproco, who previously bought it from one Catalino Labro sometime in 1923. The answer further alleged that therein plaintiffs' father, *Angel*, obtained his title to said property through fraud, deceit and misrepresentation by stating in his Free Patent application that the land being applied for was not occupied by any other person but himself, when in truth and in fact, said land had continuously been under the actual possession of her father, Narciso, from 1923, and by her and her husband, from 1958, or for a total of almost seventy (70) years already until the time the complaint was filed. By way of counterclaim, *Hermogena* sought the cancellation and annulment of OCT No. 29014, plus damages.

On 10 July 1992, *Hermogena* filed a motion to dismiss the complaint on grounds of prematurity and lack of cause of action on account of the alleged failure of respondents, as plaintiffs, to comply with Section 6 of Presidential Decree No. 1508, otherwise known as the *Katarungang Pambarangay Law*. This motion was denied by the trial court on 21 August 1992. *Hermogena* filed a motion for reconsideration of the denial order, but her motion was likewise denied on 8 September 1992.

In the meantime, the respondents, as plaintiffs, filed their reply on 24 August 1992 and the case was set for pre-trial conference.

After the parties had filed their respective pre-trial briefs, the respondents, as plaintiffs, filed a *Motion for Summary Judgment*. The trial court ordered *Hermogena*, as defendant in the suit, to comment on the motion within ten (10) days from 14 December 1992. Despite receipt of said order, she did not file any.

Hence, on 15 March 1993, the trial court, finding the plaintiffs' (now respondents') motion for summary judgment impressed with merit, rendered the assailed Summary Judgment, ^[5] the *fallo* of which reads:

WHEREFORE, finding the motion for summary judgment meritorious, the same is hereby granted and defendant is hereby ordered to vacate the land subject matter of this complaint and to surrender possession thereof to the plaintiffs.

The counterclaim is hereby denied for lack of merit.

Costs against the defendant.

SO ORDERED.

Unsatisfied with the judgment, *Hermogena* filed with the trial court a *Notice of Appeal*, therein making known that she is taking an appeal therefrom to the CA. Acting thereon, the trial court ordered the elevation of the entire records of the case

to the appellate court whereat Hermogena's appeal was docketed as *CA-G.R. UDK CV No. 0028-A*. Unfortunately, in a Resolution dated 15 February 1996, the appellate court dismissed said appeal for failure to pay the docket and other legal fees. Such dismissal became final and executory on 8 March 1996, per entry of judgment in the CA.

Such was the state of things when, on 3 February 1997, the spouses *Hermogena Reciproco-Samper and Wenceslao Samper*, this time represented by the herein petitioners who are all their children, filed with the CA against the Presiding Judge of RTC, Br. 153 and the herein respondents as children of *Angel* the subject **petition for the annulment of the summary judgment** rendered by the RTC of Iriga City in its Civil Case No. IR-2403. The petition, docketed in the CA as *CA-G.R. SP No. 43239*, alleged that Hermogena's counsel in Civil Case No. IR-2403, Atty. NiHofranco, committed professional delinquency or infidelity by conniving with the respondents (as plaintiffs in that case) to prevent an adversarial proceeding where she (Hermogena) can present her case fully and fairly, thereby causing her defeat. More specifically, it is claimed that *Hermogena* was the victim of extrinsic fraud consisting of the gross neglect of Atty. NiHofranco to: (a) file a comment or opposition to the motion for summary judgment, the result of which was that her side was not heard and summary judgment was thus rendered; and (b) pay the docket fees for the appeal, despite having received the said amount, as a result of which the CA dismissed the appeal from the trial court's summary judgment.

Unconvinced by the petitioners' arguments, the appellate court came out with its herein assailed Decision^[6] of 30 June 1999, dismissing the petitioners' petition for annulment of summary judgment, thus:

WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit. Let the records of Civil Case No. IR-2403 be remanded to the court *a quo* immediately upon the finality hereof.

SO ORDERED.

Hence, this recourse by the petitioners urging us to set aside the aforementioned decision of the appellate court which in effect sustained the summary judgment rendered by the trial court in its Civil Case No. IR-2403.

In support of their plea, petitioners submit that:

1. The negligence of the former counsel of their mother *Hermogena* is so gross, reckless and inexcusable that as a result, *Hermogena* was denied her day in court;
2. The summary judgment rendered by the trial court cannot attain finality because it is unjust due to the court *a quo's* failure to conduct a hearing on the motion therefor; and
3. *Hermogena's* defenses as set forth in her answer tender triable issues, which are: (a) she is the true owner and occupant of the disputed property, having obtained title to the same by sale and having remained in possession thereof for more than seventy (70) years now; (b) the respondents' predecessor-in-interest (*Angel*)