

## SECOND DIVISION

[ G.R. NO. 165962, July 06, 2007 ]

**VIRGINIA PEREZ CLAUDIO, REPRESENTED BY ERNESTO BROSAS,  
AS ATTORNEY-IN-FACT, PETITIONER, VS. FRANCISCA QUEBRAL,  
RESPONDENT.**

### D E C I S I O N

**TINGA, J.:**

In this Rule 45 Petition for Review, petitioner seeks the reversal of the decision<sup>[1]</sup> of the Court of Appeals promulgated on 31 May 2004 that dismissed the case of forcible entry which the Regional Trial Court (RTC) of Dagupan City had ordered<sup>[2]</sup> remanded to the Municipal Trial Court in Cities (MTCC) of Dagupan City.

Petitioner Virginia Perez-Claudio, through her representative and attorney-in-fact Ernesto Brosas,<sup>[3]</sup> lodged a complaint for forcible entry with an application for a writ of preliminary mandatory injunction<sup>[4]</sup> before the MTCC of Dagupan City. She alleged that on 25 August 1999, Proceso Perez (Proceso) and herein respondent Francisca Quebral, by means of stealth and strategy and without authority of law, entered into the western half portion of a piece of land situated in Tapuac District, Dagupan City and identified as Lot No. 5267 in the cadastral survey.<sup>[5]</sup> Claiming to be the owner of the said portion, she asserted that she had purchased the same from her father, Alberto Perez (Alberto), in 1973<sup>[6]</sup> and had since been in peaceful possession thereof until Proceso and respondent committed acts of disposition such as building a hut, cutting off trees and removing the barbed-wire fence.

Both Proceso and respondent refuted petitioner's claim of ownership and prior possession of the land in question. Proceso, in his Answer, countered that the property was and still is owned by his grandfather, Juan Perez, Sr., who died in 1938 leaving his three children, Juan, Jr., Patricia and Maria, to become co-owners thereof. The property, according to him, remained to be in his grandfather's name and had never been partitioned.<sup>[7]</sup> Respondent's defense ran along the same line. She pointed out that she had become a co-owner of the property by way of succession and by right of representation upon the death of her mother, Patricia. Alberto, she revealed, was Maria's illegitimate son.<sup>[8]</sup> Respondent attached documents<sup>[9]</sup> to her Answer tending to show that the alleged sale between Alberto and petitioner was fictitious, simulated and without consideration and, therefore, null and void.

At the preliminary conference, the parties agreed on a set of facts. The common stipulation of facts, as embodied in the Pre-trial Order dated 15 September 2000, reads, thus:

At the pre-trial conference this morning, Atty. Hermogenes Decano, counsel for the plaintiff, Atty. Roberto Callanta, counsel for the defendant Francisca Quebral, Atty. Edgardo Martin, counsel for the defendant Proceso Perez and the defendants appeared. The parties discounted any amicable settlement. However, they entered into the following stipulations of facts:

1. The identity of the parties;
2. The identity of the subject property;
3. That the original owner of the subject property was Juan Perez, Sr. as per OCT No. 40174;
4. That Juan Perez, Sr. has three (3) heirs[,] namely[,] Juan Perez, Jr., Patricia Perez and Maria Perez;
5. That defendant Francisca Quebral is one of [the] heirs of Patricia Perez, who is one of the children of Juan Perez, Sr.;
6. That defendant Proceso Perez is the heir of Juan Perez, Jr., son of Juan Perez, Sr.<sup>[10]</sup>

When the parties were ordered by the MTCC to file their position papers, only petitioner and Proceso complied. Respondent was duly notified of the order,<sup>[11]</sup> but she failed to comply.

On 20 November 2000, the MTCC rendered its decision, the dispositive part of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants[,] ordering the latter:

1. To vacate the subject western half portion of Lot No. 5267 and to restore peacefully the possession thereof to the plaintiff;
2. To pay to the plaintiff, proportionately, the reasonable compensation for their use of the subject premises in the amount of P3,000.00 per month from August 25, 1999 until they have fully vacated the same;
3. To pay to the plaintiff, proportionately, the sum of P15,000.00 as and for attorney's fees and litigation expenses and to pay the cost.

SO ORDERED.<sup>[12]</sup>

Aggrieved by the adverse decision, Proceso and respondent appealed to the RTC of Dagupan City.

Proceso argued that the MTCC erred in finding him liable under the complaint<sup>[13]</sup> and in disregarding his affidavit attesting to the supposed fact that he had no reason to forcibly take possession of the disputed portion of the land because he established his residence in Malued District, Dagupan City since birth. He claimed that the court also disregarded his witnesses' affidavits which tend to prove that he was not the one who entered the subject premises and felled the trees therein.<sup>[14]</sup>

For her part, respondent contended, among other things, that she had been denied due process when the court decided the case in the absence of her position paper—a procedural lapse that she attributed to the negligence and ineffectiveness of her counsel.<sup>[15]</sup>

On April 5, 2001, the RTC rendered its decision, reversing the MTCC insofar as Proceso was concerned and, as regards respondent, ordering the remand of the case back to the MTCC for further proceedings and for the reception of respondent's position paper.<sup>[16]</sup>

Questioning the order of remand, petitioner filed a Petition for Review under Rule 42 before the Court of Appeals. She asserted that the negligent failure of respondent's counsel to file the necessary position paper despite due notice should be binding on respondent especially so where the counsel had not been adequately shown to be in bad faith or grossly negligent. She emphasized that respondent was unable to show any reason for such failure and instead merely made a foregone conclusion that her counsel was negligent and incompetent.<sup>[17]</sup>

Incidentally, in her petition, petitioner had impleaded Proceso since the latter's name appeared in the caption of the petition. Be that as it may, in view of the lone issue that she raised before the appellate court and the positive statement that she was abandoning the case against Proceso because of the latter's claim that he did not enter the subject premises,<sup>[18]</sup> petitioner, in effect, did not appeal from the order of the RTC dismissing the case against said defendant.

On 31 May 2004, the Court of Appeals rendered the assailed decision dismissing the complaint for forcible entry. After her motion for reconsideration was denied, petitioner filed the instant petition.

Resolving the issue of whether the instant case warrants a remand to the MTCC, the Court of Appeals held that the negligence imputed by respondent to her counsel had not been satisfactorily shown. According to the appellate court, such omission was nothing more than a manifestation of professional lapse, inefficiency and carelessness. And even hypothetically admitting it to be true, the same would nevertheless be binding on respondent following the principle that any act performed by counsel within the scope of his general or implied authority is regarded as an act of his client. Thus, the MTCC could not have been in error in deciding the case even in the absence of the said pleading.<sup>[19]</sup>

We agree. The rule is that a client will suffer the consequences of the negligence, mistake or lack of competence of his counsel. While this Court is always mindful of this rule, in the interest of justice and equity, exceptions thereto may be made depending on the facts and circumstances of each case.<sup>[20]</sup> However, we do not consider the instant case as an exception to the said rule for two reasons: first, it cannot be said that respondent was deprived of her day in court and second, she failed to positively validate with proof her charge of gross and inexcusable negligence against her counsel.

The Court of Appeals is correct in finding that there is no compelling ground to remand the case back to the court of origin for the sole purpose of allowing respondent to submit her position paper. Remand would serve no useful purpose as it would only cause unwanted and unnecessary delay in the proceedings. After all, upon being apprised of the adverse decision rendered by the MTCC, respondent lost no time in availing of the appropriate remedy which is an appeal to the RTC, and thereafter actively resisted the claim of petitioner.

We now determine whether the Court of Appeals acted correctly in dismissing the complaint against respondent.

The appellate court, invoking its equity jurisdiction, undertook to inquire into the merits of the case in order not to delay the proceedings. It observed that doubt was cast on the exact identity of the disputed portion of the land the rightful possession of which was being claimed by petitioner. The 1973 deed of sale provides that Federico and petitioner were to get the northern and southern halves of the land, respectively; but since the northern portion was smaller, Federico was empowered to acquire so much from petitioner's portion as to complete his own proportionate half. The property, however, remained undivided and the said deed of sale unregistered which is why the transfer certificate of title covering the entire lot remained in the name of Alberto. <sup>[21]</sup> For this reason, and considering the allegation in the complaint that it is the western half of the land which was forcibly entered into, the appellate court ruled that petitioner had failed to identify the portion of the property over which she claimed rightful possession as an owner.<sup>[22]</sup>

Petitioner maintains that the Court of Appeals committed a reversible error when it dismissed the complaint for forcible entry on the ground that the subject property has not been sufficiently identified by the allegations in the complaint as well as by the evidence. She advances that the appellate court has made a "preconceived conclusion of lack of identity of [the] subject land" based solely on the 1973 deed of sale<sup>[23]</sup> and in the process ignored the affidavits attached to her position paper independently executed by

her and by her caretaker as well as the sketch of the entire Lot No. 5267.<sup>[24]</sup> Moreover, she believes that when the parties at the pre-trial conference freely admitted and stipulated on the identity of the contested property, they became bound by the same and, accordingly, no other questions regarding the same admitted issue may further be considered even on appeal.<sup>[25]</sup>

The contention is imbued with merit.

The Court of Appeals committed a reversible error when it found that the subject property has not been sufficiently identified by petitioner. On the face of the complaint, it abundantly appears that petitioner is referring to only a portion of the entire lot in question. Admittedly, the complaint refers to the western half portion whereas the 1973 deed of sale attached to it shows that it is the southern portion of the lot that was sold by Alberto to petitioner. Despite this ostensible discrepancy, however, all the parties proceeded to the preliminary conference and, with their counsel, entered into a stipulation of facts thereby admitting, among others, the identity of the subject premises'an admission that is binding on them. Thus, respondent's contention that what has been admitted is the identity of the entire Lot No. 5267 and not the unidentified portion claimed by petitioner,<sup>[26]</sup> must fail. Notably, none of the defendants in the lower court raised this question in their answer or in their pre-trial brief.

Ejectment cases in general involve a perturbation of social order which must be restored as promptly as possible.<sup>[27]</sup> Thus, the Rules on Summary Procedure, which