

THIRD DIVISION

[G.R. NO. 155688, November 28, 2007]

NATIVIDAD FIGURACION, FILMA F. RABOR AND CATHERINE MANALASTAS, PETITIONERS, VS. SPOUSES CRESENCIANO AND AMELITA LIBI, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

By way of a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, Natividad Figuracion, Filma Rabor and Catherine Manalastas (petitioners) assail the March 20, 2002 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 68799, affirming the February 23, 2000 Decision^[2] of the Regional Trial Court (Branch 22), Cebu City (RTC) in Civil Case No. CEB-21193; and CA Resolution^[3] dated August 20, 2002.

The facts are of record.

Galileo Figuracion was the owner of Lot No. 899-D-2 situated in Cebu City.^[4] Sometime in 1948, the Cebu City government (Cebu City) expropriated Lot No. 899-D-2, consisting of 474 sq. m. and turned the same into a portion of N. Escario Street,^[5] connecting the Capitol Building to Gorordo Avenue and U.P. Junior College. Cebu City paid P23,700.00 for Lot No. 899-D-2^[6] and was issued TCT No. 49454.^[7]

In Resolution No. 330,^[8] dated March 20, 1989, the Cebu City *Sangguniang Panlungsod* approved the reconveyance to Isagani Figuracion, successor-in-interest of Galileo Figuracion, of an unused portion of Lot No. 899-D-2, designated as **Lot No. 899-D-2-A** (subject lot), consisting of 84 sq. m. On the basis thereof, Cebu City Mayor Tomas Osmena (Mayor Osmena) executed in favor of Isagani Figuracion a deed of sale^[9] dated April 12, 1989 over the subject lot for the price of P40,000.00. TCT No. 49454 in the name of Cebu City was canceled,^[10] and in lieu thereof, TCT No. 113746^[11] was issued in the name of Isagani Figuracion, and TCT No. 113747, in the name of Cebu City,^[12] over the remaining portion of Lot No. 899-D-2.

Upon resurvey over two years later, it was ascertained that the subject lot actually measures 130 sq. m.^[13] Accordingly, the *Sangguniang Panlungsod* of Cebu City amended Resolution No. 330 by issuing Resolution No. 2345,^[14] approving the reconveyance of 130 sq. m. of Lot No. 899-D-2, and Mayor Osmena executed in favor of Isagani Figuracion an amended deed of sale dated January 24, 1992 over said portion for P65,000.00.^[15] TCT No. 113746 and TCT No. 113747 were canceled, and in lieu thereof, TCT No. 122369^[16] was issued on September 30,

1992 to Isagani Figuracion.

It appearing that herein respondents had been using the subject lot, and refused to vacate it despite demand, petitioners, as successors-in-interest of Isagani Figuracion, filed against respondents a complaint for unlawful detainer, docketed as Civil Case No. R-34287 in the Municipal Trial Court (MTC), Branch 2, Cebu City.

The MTC rendered a decision on June 26, 1995, declaring petitioners entitled to possession of the subject lot and ordering respondents to remove the fence they had constructed.^[17]

The MTC decision was affirmed by the RTC (Branch 19), Cebu City in its January 15, 1996 Decision^[18] in Civil Case No. CEB-1778, which, in turn, was upheld by the CA in its April 30, 1996 Decision^[19] in CA-G.R. SP No. 39631.

Undaunted, respondents filed against petitioners a complaint for easement, docketed in the RTC as Civil Case No. CEB-21193, praying that they (respondents) be granted a right of way over the subject lot.^[20] However, respondents twice amended their complaint^[21] to implead Cebu City, and shifted to a different cause of action --that is, from one for the establishment of an easement of right of way over the subject lot to one for the annulment of a) Resolutions No. 330 and No. 2345, b) the January 24, 1992 deed of sale in favor of Isagani Figuracion, and c) TCT No. 122309, and the payment of damages.

In its Answer,^[22] Cebu City defended the reconveyance to Isagani Figuracion of the subject lot considering that it was not utilized in the construction of N. Escario Street and had long been vacant.

Petitioners filed their own Answer,^[23] pointing out that the complaint in Civil Case No. CEB-21193 is barred by the June 26, 1995 MTC decision in Civil Case No. R-34287, as affirmed by the RTC and CA. They also challenged respondents' legal standing to question the *Sangguniang Panlungsod* resolutions.

After trial, the RTC in Civil Case No. CEB-21193 rendered the following decision:

WHEREFORE, in view of all foregoing, judgment is hereby rendered declaring resolution Nos. 330 and 2345 of the Sangguniang Panlungsod ng Cebu, Deed of Sale, Amended Deed of Sale, and TCT No. 122309 as null and void.

SO ORDERED.^[24]

It does not appear in the records that Cebu City appealed. Respondents also did not appeal from the denial of their claim for damages, attorney's fees and costs.

Only petitioners appealed to the CA which, in its March 20, 2002 Decision, affirmed the RTC decision.^[25]

The CA also denied petitioners' motion for reconsideration.

And so, petitioners' recourse to this Court on the following grounds:

- I. The honorable Court of Appeals erred in not ruling that the present complaint is barred by res judicata or conclusiveness of judgment in Civil Case No. R-34287 and that the respondents are guilty of forum shopping;
- II. The honorable Court of Appeals erred in declaring resolution nos. 330 and 2345, the deed of sale and the amended deed of sale and TCT No. 122309 as null and void;
- III. The honorable Court of Appeals erred in not ruling that respondents do not have the legal capacity to sue;
- IV. The honorable court of appeals erred in not ruling that the present action is barred by laches and prescription;
- V. The honorable Court of Appeals erred in not awarding damages in favor of petitioners as prayed for in their counterclaim.^[26]

The Court grants the petition. The Second Amended Complaint in Civil Case No. CEB-21193 should have been dismissed by the trial court.

The third issue on the legal standing of respondents to institute Civil Case No. CEB-21193 is primordial.

On that issue, the RTC held:

Private defendants [petitioners herein] further claim that as private citizens and as ordinary taxpayers, the plaintiffs [respondents herein] have no legal capacity to question the reconveyance of Lot No. 899-D-2 [sic] by defendants City of Cebu to the private defendants.

This is not so. In the case of *Dacanay v. Asistio, Jr., et al.*, 208 SCRA 404, it was categorically ruled by the Supreme Court that:

WHEREFORE, it having been established that the petitioner and the general public have a legal right to the relief demanded and that the public respondents have the corresponding duty, arising from public office, to clear the city streets and restore them to their specific public purpose (*Enriquez vs. Bidin*, 47 SCRA 183; *City of Manila vs. Garcia et al.*, 19 SCRA 413 citing *Unson vs. Lacson*, 100 Phil. 695), the respondents City Mayor and City Engineer of Caloocan City or their successors in office are hereby ordered to immediately enforce and implement the decision in Civil Case No. C-1292 declaring that Heroes del '96, V. Gozon, and Gonzales Streets are public streets for public use, and they are ordered to remove or demolish, or cause to be removed or demolished, the market stalls occupying said city streets with utmost dispatch within thirty (30) days from notice of this decision. This decision is immediately executory.^[27]

The CA agreed:

In accordance with the abovementioned concepts, Spouses Libi cannot be considered not to have the legal capacity to sue for lack of interest, being real parties in interest of the property subject of litigation. Indeed, Spouses Libi stand to be benefited or injured by the judgment in the case at bar considering that the 130-square meter portion appropriated to Isagani Figuracion is necessary for their (Spouses Libi's) ingress [from] and egress to Escario Street.^[28]

Both courts are mistaken. They approached the issue from the wrong perspective, in the process losing sight of three important facts:

First, based on their second amended complaint, what respondents seek is the annulment of TCT No. 122309, Resolutions No. 330 and 2345, as well as the deed of sale and amended deed of sale of the subject lot between Cebu City and petitioners.

Second, while respondents are seeking the cancellation of TCT No. 122309, they are not themselves claiming title to or right of possession of the subject lot. It must be emphasized that in their second amended complaint, they even abandoned their demand for a right of way over the property.

Finally, the subject lot was part of Lot No. 899-D-2 which Cebu City expropriated for the construction of a city street.

From the foregoing facts, it is readily apparent that respondents were not the real-parties-in-interest to institute Civil Case No. CEB-21193 for annulment of TCT No. 122309.

In a case for annulment of title, the plaintiff must allege two essential facts: (1) that plaintiff was the owner of the land, and (2) that the defendant illegally dispossessed the plaintiff of the property. Absent either of these allegations, the plaintiff is considered not the proper party to cause the cancellation of the title of the defendant.^[29]

In their second amended complaint, respondents as plaintiffs unequivocally alleged:

5. That when the plaintiff [respondents herein] bought lot no. 899-D-1, they did so in the belief that they had an outlet to Escario Street through lot no. 899-D-2 **owned by defendant City of Cebu** and covered by T.C.T. No. 49454 which is a road lot as shown by the following annotation on said title xxx.

6. Lot No. 899-D-2 being a road lot, cannot be the subject of sale, as it is outside the commerce of man xxx.^[30]

In their prayer, respondents sought neither ownership nor possession of the subject lot but only cancellation of the private title of petitioners over the property on the ground that this is part of a public road.^[31]

Clearly, respondents have no interest in the title or possession of Lot No. 899-D-2-A. The situation would have been different had respondents maintained their demand for a right of way over the property. But as the records disclose, they abandoned this demand. Respondents, therefore, are not at all the proper parties to file for

annulment of petitioners' title.

Moreover, in essence and effect, Civil Case No. CEB-21193 is actually for reversion of the subject lot, as a portion of Lot No. 899-D-2, to the public domain.

Reversion is a proceeding by which the State seeks the return of lands of the public domain or the improvements thereon through the cancellation of private title erroneously or fraudulently issued over it.^[32] The one crucial element which sets it apart from all other actions involving possession or title to property is the positive averment in the complaint of state ownership of the property in dispute.^[33]

In a similar situation in *East Asia Traders, Inc. v. Republic of the Philippines*,^[34] we held:

We reviewed very carefully respondent's allegations in its complaint. In a nutshell, respondent alleged that the defendants (herein petitioner and its predecessors-in-interest) procured their lot [which] is inalienable because the DENR investigation disclosed that it was intended by the government for the construction of a national road; that defendants' titles are null and void and should be cancelled and, therefore, Lot 4355 should be reverted to the State. ***These allegations are sufficient to constitute a cause of action for reversion.*** (Emphasis supplied)

Even the decisions of the RTC and the CA were ultimately for reversion of the subject lot to the dominion of Cebu City. In declaring null and void Resolutions No. 330 and No. 2345 of the *Sangguniang Panlungsod* of Cebu, the deed of sale, the amended deed of sale, and TCT No. 122309 issued in the name of petitioners, both courts virtually restored to Cebu City title over the subject lot; only, they omitted ordering the reinstatement of TCT No. 49454 in the name of Cebu City. Furthermore, in not granting the claim of respondents for payment of damages for the alleged demolition of their structures on the subject lot, the lower courts did not recognize the right of respondents to erect and maintain structures on said property.

The cause of action involved in Civil Case No. CEB-21193 being, in reality, one for reversion of public land, respondents cannot be considered the proper parties therein

In *VSC Commercial Enterprises, Inc. v. Court of Appeals*,^[35] the Court had occasion to identify the real party in interest in an action for reversion:

Under Rule 3, Section 2 of the Revised Rules of Court, a real party in interest is defined as "the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit." ***"Interest" within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. The interest of the party must also be personal and not one based on a desire to vindicate the constitutional right of some third and unrelated party.*** Real interest, on the other hand, means a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest.