

## THIRD DIVISION

[ G.R. No. 162874, November 23, 2007 ]

**LUCIO S. COLLADO, PETITIONER, VS. HEIRS OF ALEJANDRO TRIUNFANTE, SR., REPRESENTED BY ALEJANDRO TRIUNFANTE, JR., RESPONDENTS.**

### D E C I S I O N

**NACHURA, J.:**

Before the Court is a petition for review on *certiorari* of the Decision dated January 21, 2003 and the Resolution dated October 27, 2003 of the Court of Appeals (CA) in CA-G.R. SP No. 68541.

On July 15, 1998, the heirs of Alejandro Triunfante, Sr. (The Triunfantes) filed a case for forcible entry and damages with application for a writ of preliminary mandatory injunction and temporary restraining order against Guillermo Telan and Bruno Telan (The Telans) before the Municipal Trial Court (MTC), Branch 2, Tuguegarao, Cagayan. The case was docketed as Civil Case No. 2011. The Triunfantes sought to recover material possession of Cadastral Lot No. 3192-A, consisting of 7,852.50 square meters, located at Capatan, Tuguegarao, Cagayan.

The Triunfantes claimed that their father Alejandro Triunfante, Sr. (Alejandro) is the owner of the subject land, having acquired the same by virtue of a Deed of Absolute Sale of Unregistered Land executed on January 30, 1946; that from the date of sale, Alejandro and his family cultivated the land, introduced improvements thereon and their possession of the land was continuous and peaceful; that in May 1998, the Telans, through force and intimidation, illegally entered the subject property, prohibited the Triunfantes from cultivating the same, constructed fences made of barbed wire, and prohibited them and their representatives from entering the property.

The Telans claimed that their father, Pedro, is the owner of the land; that during Pedro's lifetime, he was in open, public, continuous and undisturbed possession of the land until his death in 1992, when his heirs took possession of the land and remained in possession thereof up to the present.

Both contending parties claimed ownership over the land, asserting acquisition through intestate succession.

The MTC made a provisional declaration of the Triunfantes' ownership over the land. On November 26, 1998, the MTC rendered a Decision,<sup>[1]</sup> the dispositive portion of which reads:

Wherefore, judgment is hereby rendered as follows:

- a. Ordering the defendants and any or all persons claiming right or authority under them to vacate the possession of the subject land;
- b. Ordering the defendants to pay jointly and severally the plaintiffs the following:
  1. ₱10,000.00 per cropping season for the use and occupation of the premises commencing the first week of May 1998 until the possession of the land in question is restored to the plaintiffs;
  2. ₱10,000.00 as attorney's fees;
- c. Ordering the defendants to pay the costs of this suit.

SO ORDERED.<sup>[2]</sup>

For failure of the Telans to file an appeal on time, the MTC Decision became final and executory.<sup>[3]</sup> On January 6, 2000, the MTC issued a Writ of Execution. However, the judgment was not executed because a certain Lucio Collado (Collado) had built a perimeter fence of concrete hollow blocks on the land.<sup>[4]</sup> On August 3, 2000, the MTC issued an Alias Writ of Execution,<sup>[5]</sup> directing the Provincial Sheriff, or any of his deputies, to execute the November 26, 1998 MTC Decision.

On October 18, 2000, the Triunfantes filed a Motion for the Issuance of a Writ of Demolition for Collado's failure to comply with the MTC Decision. On December 5, 2000, the MTC issued a Writ of Demolition,<sup>[6]</sup> commanding the Sheriff of Cagayan, or any of his deputies, to demolish the improvements erected on the land.

On April 3, 2001, Collado filed a civil case for damages with prayer for issuance of writ of preliminary mandatory injunction against the Triunfantes and the Office of the *Ex-Officio* Sheriff, through Sheriffs Cipriano Verbo, Jr. and Silvino Malana, Jr. The case was docketed as Civil Case No. 5818 before the Regional Trial Court (RTC), Branch 3, Tuguegarao City. Collado claims that his property right was violated when the Triunfantes and the Sheriffs, with threat, violence and intimidation, entered the enclosed premises of the property.<sup>[7]</sup> Collado asserts that he is the absolute owner and actual occupant of the land by virtue of a Deed of Absolute Sale executed between him and the Telans on June 19, 1998, involving 5,000 square meters of the disputed property, and he bought the other 2,000 square meters from Restituto Allam, who acquired the same from the heirs of Pedro Telan by way of waiver of rights on January 11, 2000.<sup>[8]</sup> He maintains that although the property is still unregistered, he has been in open, public, notorious, uninterrupted and continuous possession of the property in the concept of an owner through his predecessor-in-interest for a period of not less than sixty (60) years and up to the present.<sup>[9]</sup>

On June 25, 2001, the RTC issued an Order<sup>[10]</sup> dismissing the case with prejudice. The RTC declared that Collado violated the rule on non-forum shopping when he filed the case for damages. It was proven that there was a pending administrative protest before the Department of Environment and Natural Resources (DENR) involving the same parties, same subject matter, same issues, and the final outcome of the said administrative case is definitive of the outcome of the case for damages. The RTC further ruled that:

This Court could not give credence to plaintiff Collado's arguments through his counsel that "There was a willful and unlawful invasion of plaintiff's property" on March 22, 2001. As gleaned from the records, the property herein was executed by a lawful order of the Municipal Trial Court including a lawful "Writ of Demolition." There was an implementation of a lawful Court Order where the strong arm of the law has to take its course. Otherwise, a contempt Order can be issued. If the plaintiff herein was not a party as alleged, then he can be considered as a "successor-in-interest" of the real parties to the civil cases at the Municipal Trial Court, being a buyer of said property under litigation.

If there are no identities of causes of action in these cases pending, then the plaintiff must consider the primordial aim why these cases were filed one over another (sic). Is it not to gain and recover the same property from the defendants? If so, then all these cases have the same cause of action, to recover real property.<sup>[11]</sup>

Collado filed a Motion for Reconsideration of the aforesaid Decision. On September 28, 2001, the RTC issued an Order<sup>[12]</sup> denying the same.

Aggrieved, Collado filed a petition for *certiorari* before the Court of Appeals (CA) contending the following:

- a. The action for damages under Civil Case No. 5818 is entirely independent, separate and distinct from Civil Case No. 2001 which is an action for forcible entry. Hence, the principles of *litis pendencia*, *res judicata* and forum shopping are not applicable;<sup>[13]</sup>
- b. There is no need for exhaustion of administrative remedies since the issues involved in the Protest before the DENR and the civil case for damages in the RTC are entirely separate and distinct;<sup>[14]</sup>
- c. The forcible entry case did not resolve the issue of ownership;<sup>[15]</sup> and
- d. The acts complained of in the case for damages before the RTC are wrongful, even though made pursuant to a court order.<sup>[16]</sup>

On January 21, 2003, the CA rendered a Decision<sup>[17]</sup> in favor of the Triunfantes. The CA declared that the RTC did not commit grave abuse of discretion in dismissing the civil case for damages, viz.:

Under Section 19, Rule 70 of the 1997 Rules on Civil Procedure, "(i)f judgment is rendered against the defendant, *execution shall issue immediately*, unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff x x x. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before the tenth day of each succeeding month or period. x x x."

To stay the immediate execution of judgment in ejectment proceedings, the above-quoted provision require that the defendant:

1. perfect his appeal,
2. file a supersedeas bond, and
3. periodically deposit the rentals falling due during the pendency of the appeal.

The original defendants in Civil Case No. 2011, the predecessors-in-interest of petitioner, did nothing of the above. Since immediate execution shall issue so long as the above requirements are not complied with, the execution being a mandatory and ministerial duty of the court, the more should the judgment be executed should the same become final and executory. A writ of execution and later, a demolition order, were issued by the court. The judgment of the Municipal Court in an ejectment case is *res judicata* as to the issue of possession *de facto*. The possession and ownership of a parcel of land may be held by different persons. The winning party is entitled to the execution of the Municipal Court's final judgment as to possession. The officer charged with the execution of judgment in the absence of restraining order is enjoined to act with considerable dispatch so as not to unduly delay the administration of justice. The party which prevails after going through the full course of litigation is entitled to a writ of execution and to the energetic service and enforcement thereof upon the losing party. The acts complained of which transpired on 22 March 2001 were merely in pursuance of a lawful order of the court. Petitioner cannot claim exception thereto. *A judgment of eviction can be executed against a third party who has derived his right of possession of the premises from the defendant*, particularly when such right was acquired only after the filing of the ejectment suit.

In the instant case, 5,000 square meters of the disputed lot were acquired from the heirs of Pedro S. Telan on 19 June 1998, and 2,000 square meters from Restituto Allam on 26 January 2000, both by way of absolute sale. While the first acquisition was made barely a month before the complaint for ejectment was filed before Branch 02, MTC of Tuguegarao City, the latter acquisition was made after the Decision in Civil Case No. 2011 was rendered and the corresponding writ of execution therefore, issued. Moreover, the Sheriff's Report anent the execution of the order was dated 06 April 2001, made after the case before the court *a quo* was filed on 03 April 2001. A case in which an execution has been issued is thus regarded as still pending so that all proceedings on the execution are proceedings in the suit. There is no question that the court which rendered the judgment has a general supervisory control over its process of execution, and this power carries with it the right to determine every question of fact and law which may be involved in the execution. *The jurisdiction to correct errors and mistakes in the execution properly belongs to the court which issued the execution.* The Court should first be given the opportunity to correct the errors of its ministerial officers and to control its own process. This Court is thus of the considered opinion that the action for damages by petitioner should have been filed before Branch 02, MTC of Tuguegarao