

FIRST DIVISION

[G.R. NO. 161916, January 20, 2006]

**ARNELITO ADLAWAN, PETITIONER, VS. EMETERIO M. ADLAWAN
AND NARCISA M. ADLAWAN, RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Assailed in this petition for review is the September 23, 2003 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 74921 which set aside the September 13, 2002 Decision^[2] of the Regional Trial Court (RTC) of Cebu City, Branch 7, in Civil Case No. CEB-27806, and reinstated the February 12, 2002 Judgment^[3] of the Municipal Trial Court (MTC) of Minglanilla, Metro Cebu, in Civil Case No. 392, dismissing petitioner Arnelito Adlawan's unlawful detainer suit against respondents Emeterio and Narcisa Adlawan. Likewise questioned is the January 8, 2004 Resolution^[4] of the Court of Appeals which denied petitioner's motion for reconsideration.

The instant ejectment suit stemmed from the parties' dispute over Lot 7226 and the house built thereon, covered by Transfer Certificate of Title No. 8842,^[5] registered in the name of the late Dominador Adlawan and located at Barrio Lipata, Municipality of Minglanilla, Cebu. In his complaint, petitioner claimed that he is an acknowledged illegitimate child^[6] of Dominador who died on May 28, 1987 without any other issue. Claiming to be the sole heir of Dominador, he executed an affidavit adjudicating to himself Lot 7226 and the house built thereon.^[7] Out of respect and generosity to respondents who are the siblings of his father, he granted their plea to occupy the subject property provided they would vacate the same should his need for the property arise. Sometime in January 1999, he verbally requested respondents to vacate the house and lot, but they refused and filed instead an action for quieting of title^[8] with the RTC. Finally, upon respondents' refusal to heed the last demand letter to vacate dated August 2, 2000, petitioner filed the instant case on August 9, 2000.^[9]

On the other hand, respondents Narcisa and Emeterio, 70 and 59 years of age, respectively,^[10] denied that they begged petitioner to allow them to stay on the questioned property and stressed that they have been occupying Lot 7226 and the house standing thereon since birth. They alleged that Lot 7226 was originally registered in the name of their deceased father, Ramon Adlawan^[11] and the ancestral house standing thereon was owned by Ramon and their mother, Oligia Mañacap Adlawan. The spouses had nine^[12] children including the late Dominador and herein surviving respondents Emeterio and Narcisa. During the lifetime of their parents and deceased siblings, all of them lived on the said property. Dominador and his wife, Graciana Ramas Adlawan, who died without issue, also occupied the same.^[13] Petitioner, on the other hand, is a stranger who never had possession of

Lot 7226.

Sometime in 1961, spouses Ramon and Oligia needed money to finance the renovation of their house. Since they were not qualified to obtain a loan, they transferred ownership of Lot 7226 in the name of their son Dominador who was the only one in the family who had a college education. By virtue of a January 31, 1962 simulated deed of sale,^[14] a title was issued to Dominador which enabled him to secure a loan with Lot 7226 as collateral. Notwithstanding the execution of the simulated deed, Dominador, then single, never disputed his parents' ownership of the lot. He and his wife, Graciana, did not disturb respondents' possession of the property until they died on May 28, 1987 and May 6, 1997, respectively.

Respondents also contended that Dominador's signature at the back of petitioner's birth certificate was forged, hence, the latter is not an heir of Dominador and has no right to claim ownership of Lot 7226.^[15] They argued that even if petitioner is indeed Dominador's acknowledged illegitimate son, his right to succeed is doubtful because Dominador was survived by his wife, Graciana.^[16]

On February 12, 2002, the MTC dismissed the complaint holding that the establishment of petitioner's filiation and the settlement of the estate of Dominador are conditions precedent to the accrual of petitioner's action for ejectment. It added that since Dominador was survived by his wife, Graciana, who died 10 years thereafter, her legal heirs are also entitled to their share in Lot 7226. The dispositive portion thereof, reads:

In View of the foregoing, for failure to prove by preponderance of evidence, the plaintiff's cause of action, the above-entitled case is hereby Ordered DISMISSED.

SO ORDERED.^[17]

On appeal by petitioner, the RTC reversed the decision of the MTC holding that the title of Dominador over Lot 7226 cannot be collaterally attacked. It thus ordered respondents to turn over possession of the controverted lot to petitioner and to pay compensation for the use and occupation of the premises. The decretal portion thereof, provides:

Wherefore, the Judgment, dated February 12, 2002, of the Municipal Trial Court of Minglanilla, Cebu, in Civil Case No. 392, is reversed. Defendants-appellees are directed to restore to plaintiff-appellant possession of Lot 7226 and the house thereon, and to pay plaintiff-appellant, beginning in August 2000, compensation for their use and occupation of the property in the amount of P500.00 a month.

So ordered.^[18]

Meanwhile, the RTC granted petitioner's motion for execution pending appeal^[19] which was opposed by the alleged nephew and nieces of Graciana in their motion for leave to intervene and to file an answer in intervention.^[20] They contended that as heirs of Graciana, they have a share in Lot 7226 and that intervention is necessary to protect their right over the property. In addition, they declared that as co-owners of the property, they are allowing respondents to stay in Lot 7226 until a formal

partition of the property is made.

The RTC denied the motion for leave to intervene.^[21] It, however, recalled the order granting the execution pending appeal having lost jurisdiction over the case in view of the petition filed by respondents with the Court of Appeals.^[22]

On September 23, 2003, the Court of Appeals set aside the decision of the RTC and reinstated the judgment of the MTC. It ratiocinated that petitioner and the heirs of Graciana are co-owners of Lot 7226. As such, petitioner cannot eject respondents from the property via an unlawful detainer suit filed in his own name and as the sole owner of the property. Thus –

WHEEFORE, premises considered, the appealed Decision dated September 13, 2002 of the Regional Trial Court of Cebu City, Branch 7, in Civil Case No. CEB-27806 is REVERSED and SET ASIDE, and the Judgment dated February 12, 2002 of the Municipal Trial Court of Minglanilla, Metro Cebu, in Civil Case No. 392 is REINSTATED. Costs against the respondent.

SO ORDERED.^[23]

Petitioner's motion for reconsideration was denied. Hence, the instant petition.

The decisive issue to be resolved is whether or not petitioner can validly maintain the instant case for ejectment.

Petitioner averred that he is an acknowledged illegitimate son and the sole heir of Dominador. He in fact executed an affidavit adjudicating to himself the controverted property. In ruling for the petitioner, the RTC held that the questioned January 31, 1962 deed of sale validly transferred title to Dominador and that petitioner is his acknowledged illegitimate son who inherited ownership of the questioned lot. The Court notes, however, that the RTC lost sight of the fact that the theory of succession invoked by petitioner would end up proving that he is not the sole owner of Lot 7226. This is so because Dominador was survived not only by petitioner but also by his legal wife, Graciana, who died 10 years after the demise of Dominador on May 28, 1987.^[24] By intestate succession, Graciana and petitioner became co-owners of Lot 7226.^[25] The death of Graciana on May 6, 1997, did not make petitioner the absolute owner of Lot 7226 because the share of Graciana passed to her relatives by consanguinity and not to petitioner with whom she had no blood relations. The Court of Appeals thus correctly held that petitioner has no authority to institute the instant action as the sole owner of Lot 7226.

Petitioner contends that even granting that he has co-owners over Lot 7226, he can on his own file the instant case pursuant to Article 487 of the Civil Code which provides:

ART. 487. Any one of the co-owners may bring an action in ejectment.

This article covers all kinds of actions for the recovery of possession. Article 487 includes forcible entry and unlawful detainer (*accion interdictal*), recovery of possession (*accion publiciana*), and recovery of ownership (*accion de*

reivindicacion).^[26] A co-owner may bring such an action without the necessity of joining all the other co-owners as co-plaintiffs because the suit is presumed to have been filed to benefit his co-owners. It should be stressed, however, that where the suit is for the benefit of the plaintiff alone who claims to be the sole owner and entitled to the possession of the litigated property, the action should be dismissed.^[27]

The renowned civilist, Professor Arturo M. Tolentino, explained –

A co-owner may bring such an action, without the necessity of joining all the other co-owners as co-plaintiffs, because the suit is deemed to be instituted for the benefit of all. **If the action is for the benefit of the plaintiff alone, such that he claims possession for himself and not for the co-ownership, the action will not prosper.** (Emphasis added)^[28]

In *Baloloy v. Hular*,^[29] respondent filed a complaint for quieting of title claiming exclusive ownership of the property, but the evidence showed that respondent has co-owners over the property. In dismissing the complaint for want of respondent's authority to file the case, the Court held that –

Under Article 487 of the New Civil Code, any of the co-owners may bring an action in ejectment. This article covers all kinds of actions for the recovery of possession, including an *accion publiciana* and a reivindicatory action. A co-owner may bring such an action without the necessity of joining all the other co-owners as co-plaintiffs because the suit is deemed to be instituted for the benefit of all. Any judgment of the court in favor of the co-owner will benefit the others but if such judgment is adverse, the same cannot prejudice the rights of the unimpleaded co-owners. If the action is for the benefit of the plaintiff alone who claims to be the sole owner and entitled to the possession thereof, the action will not prosper unless he impleads the other co-owners who are indispensable parties.

In this case, the respondent alone filed the complaint, claiming sole ownership over the subject property and praying that he be declared the sole owner thereof. There is no proof that the other co-owners had waived their rights over the subject property or conveyed the same to the respondent or such co-owners were aware of the case in the trial court. The trial court rendered judgment declaring the respondent as the sole owner of the property and entitled to its possession, to the prejudice of the latter's siblings. Patently then, the decision of the trial court is erroneous.

Under Section 7, Rule 3 of the Rules of Court, the respondent was mandated to implead his siblings, being co-owners of the property, as parties. The respondent failed to comply with the rule. It must, likewise, be stressed that the Republic of the Philippines is also an indispensable party as defendant because the respondent sought the nullification of OCT No. P-16540 which was issued based on Free Patent No. 384019. Unless the State is impleaded as party-defendant, any decision of the Court would not be binding on it. It has been held that the absence of an