

SECOND DIVISION

[G.R. No. 146513, July 30, 2004]

**LUCIA G. MIRANDA, PETITIONER, VS. ESPERANZA B. BESA,
RESPONDENT.**

DECISION

CALLEJO, SR., J.:

Before the Court is the petition for review on *certiorari* of the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 53979 which substantially affirmed the respective decisions of the Regional Trial Court (RTC) of Capas, Tarlac, Branch 66, and the 2nd Municipal Circuit Trial Court of Capas-Bamban-Concepcion in Capas, Tarlac, ordering the petitioner, *inter alia*, to vacate the lot subject of the unlawful detainer case.

Macaria Capuno was the owner of a property located in Capas, Tarlac, consisting of two lots, namely, Lot 11 of plan Psu-127058-Amd with an area of 5,081 square meters and Lot 18 of plan Psu-127058-Amd-2, with an area of 72,114 square meters. On March 31, 1953, she executed a deed of absolute sale in favor of the Spouses Alejandro Miranda and Feliza Garcia over a portion of the property with an area of 254.03 square meters, with the following boundaries:

Bounded on the N. by premises of Capas Elem. School (school site); on the E. by property of Macaria Capuno; on the S. by property acquired by H. Mallari, et al. from Macaria Capuno; and on the W. by Real Street.^[2]

The Spouses Miranda had the property surveyed on July 14, 1957, with the following technical descriptions:

A PARCEL OF LAND (Lot as shown on plan Psu-162708), situated in the Barrio of Sto. Domingo, Municipality of Capas, Province of Tarlac.

Bounded on the SE., along line 1-2, by property of Macario (*sic*) Capuno; on the SW., along line 2-3, by property of Macario (*sic*) Capuno; and along line 3-4, by property of Agapito Balagtas, et al.; on the NW., along line 4-5, by property of Macaria Capuno; and on the NE., along line 4-1, by property of the Municipal Gov't. of Capas.

Beginning at a point marked '1' on plan, being N. 24 deg. 49' E., 267.64 m. from B.L.L.M. 1, Mp. of Capas, Tarlac;

thence S. 29 deg. 49' W., 12.55 m. to point "2"
thence N. 65 deg. 11' W., 2.19 m. to point "3"
thence N. 65 deg. 06' W., 18.95 m. to point "4"
thence N. 24 deg. 18' E., 14.02 m. to point "5"
thence S. 61 deg. 12' E., 22.42 m. to the point of

beginning, containing an area of TWO HUNDRED EIGHTY-NINE (289) SQUARE METERS.^[3]

Sometime in 1960, Macaria Capuno, assisted by her counsel, Atty. Tomas Besa, filed an application with the then Court of First Instance (CFI) of Tarlac for the registration of the two lots under her name docketed as Land Registration Case N-234, LRC Record No. 18166. The Spouses Miranda did not file any opposition to the application.

On November 26, 1960, the CFI rendered judgment granting the application and declaring the applicant Capuno to be the absolute owner thereof in fee simple.^[4] On February 17, 1961, Original Certificate of Title (OCT) No. O-1278 was issued by the Register of Deeds on the basis of Decree No. N-81499 following the said decision.^[5] On March 6, 1967, Capuno executed a deed of absolute sale over Lot 18 in favor of Atty. Tomas Besa on the basis of which he was issued Transfer Certificate of Title (TCT) No. 66990 over the said property.^[6] The property was subdivided into Lots 18-A, 18-B, 18-C, 18-D, 18-E and 18-F. The latter was subdivided into four (4) lots covered by TCT Nos. 69926, 69923, 69924 and 69925 issued by the Register of Deeds to and under the name of Tomas Besa.

Sometime in October 1968, Macaria Capuno filed a complaint with the CFI of Tarlac against Spouses Tomas and Esperanza Besa for the annulment of the deed of absolute sale executed by her in favor of the Spouses Besa. The case was docketed as Civil Case No. 4453. A notice of *lis pendens* was annotated at the dorsal portion of TCT No. 66990. On October 22, 1968, the CFI dismissed the complaint. Capuno appealed the decision to the Intermediate Appellate Court (IAC) docketed as AC-G.R. CV No. 03700. On January 31, 1986, the IAC rendered a decision affirming the decision of the CFI.^[7]

In the meantime, Atty. Tomas Besa sold Lots 18-F-3-B-2 and 18-F-3-B-2-B in favor of Circle Drug Corporation to which TCT Nos. 209129 and 292231 were issued by the Register of Deeds on January 21, 1988 and April 22, 1997, respectively.^[8] TCT No. 292231 covering Lot No. 18-F-3-B-2-B was cancelled by TCT No. 292299 in the name of respondent Esperanza B. Besa on April 22, 1997. On May 15, 1997, TCT No. 292299 was cancelled by TCT No. 292806 under the name of the owner, Esperanza B. Besa.^[9]

Respondent Besa had the property subdivided into two sublots per Psd-03-086097 on May 6, 1997. One of the sublots, Lot 18-F-3-B-2-B-1 had an area of 253 square meters. A sketch plan was prepared for the said lot. She discovered that the house of petitioner Lucia Miranda, the daughter of the Spouses Miranda, occupied a portion of the said lot.^[10]

On September 3, 1997, the respondent filed a complaint for unlawful detainer against the petitioner with the Municipal Circuit Trial Court of Capas, Tarlac, docketed as Civil Case No. 1998. She alleged, *inter alia*, that she was the owner of the parcel of land covered by TCT No. 292806; the petitioner was occupying a portion of her (the respondent's) property without her permission as owner; on June 16, 1997, she sent a notice to the petitioner for the latter to vacate the property within fifteen days from notice thereof; despite the said notice, the petitioner

refused to vacate the property. She prayed that, after due proceedings, judgment be rendered in her favor:

WHEREFORE, it is most respectfully prayed of this Hon. Court that *pendente lite*, a Writ of Preliminary Mandatory Injunction be issued placing plaintiff in possession of the property by ousting the defendant [petitioner] and/or her agents or any person occupying the same in her names/behalfs and/or by virtue of any authority by her, and that plaintiff [respondent] is more than willing to comply to (*sic*) any condition that this Hon. Court may impose or put up a bond for granting of Preliminary Mandatory Injunction, and which plaintiff hereby prays to be fixed.

1. After trial, judgment be issued making permanent the Writ of Preliminary Mandatory Injunction issued;
2. After trial, ordering the defendant [petitioner], her agents, successors-in-interest, members of her family or any person allowed by her access to the property to vacate the premises, remove their respective houses/improvements thereon and to restore possession thereof to plaintiff [respondent];
3. Ordering the defendant [petitioner] to pay ₱200.00 per month from the unlawful detention until possession is fully restored to the plaintiff [respondent];
4. Ordering the defendant [petitioner] to pay the amount of ₱25,000.00 as attorney's fees, ₱10,000.00 as acceptance fees, plus ₱1,000.00 per hearing, ₱5,000.00 as cost for the preparation of the complaint and this is only for the case before the Municipal Trial Court and if an appeal is taken to the Regional Trial Court, a different fees (*sic*) will be stipulated upon, and an additional amount of ₱20,000.00 as litigation expenses;
5. And granting such other reliefs and remedies just and equitable in the premises.^[11]

In her answer to the complaint, the petitioner alleged that the property was conveyed to her parents, the Spouses Miranda, by Macaria Capuno on March 31, 1953; she and her six siblings were born on the said property and had been residing thereat since their births. The petitioner appended a copy of the deed of sale executed by Macaria Capuno in favor of her deceased parents, the Spouses Miranda.^[12]

On October 23, 1998, the court *a quo* rendered judgment in favor of the respondent and against the petitioner. The decretal portion of the decision reads:

WHEREFORE, judgment is hereby rendered:

1. Ordering the defendant [petitioner], her agents, successors-in-interest and members of her family or any persons allowed by her access to the property to vacate the premises and improvements thereof and restore possession thereof to the plaintiff [respondent];

2. Ordering the defendant [petitioner] to pay ₱200.00 per month from the unlawful detention until possession is fully restored to plaintiff [respondent].
3. Ordering the defendant [petitioner] to pay the amount of ₱5,000.00 as attorney's fees plus ₱1,000.00 per hearing;
4. Ordering the defendant [petitioner] to pay the cost of this suit.^[13]

The petitioner appealed to the RTC which rendered judgment affirming the decision of the court *a quo*.^[14]

The petitioner filed a petition for review with the CA docketed as CA-G.R. SP No. 53979 which rendered judgment on December 15, 2000 affirming with modification the decision of the RTC, thus:

WHEREFORE, premises considered, the petition is partly **GRANTED**. The award of attorney's fees is hereby deleted. The questioned decision of the Regional Trial Court (Branch 66) of Tarlac dated June 16, 1999 is hereby **AFFIRMED** in all other respects without prejudice to the filing by either party regarding the ownership of the property involved. Petitioner, her agents, successors-in-interest and members of her family or any person(s) allowed by her access to the property are directed to turn over possession of the property to respondent and to remove any improvements thereof.

SO ORDERED.^[15]

The petitioner now comes to this Court by way of a petition for review on certiorari, contending that:

A.

THE COURT OF APPEALS ERRED IN NOT RULING THAT RESPONDENT'S COMPLAINT FOR EJECTMENT SHOULD HAVE BEEN DISMISSED FOR LACK OF JURISDICTION OVER THE SUBJECT MATTER OF THE CASE OR FOR LACK OF CAUSE OF ACTION.

B.

THE COURT OF APPEALS ERRED IN NOT RULING THAT RESPONDENT IS BEREFT OF ANY RIGHT TO EJECT PETITIONER FROM THE PREMISES OF THE DISPUTED PROPERTY BECAUSE OF THE UNCONTESTED SALE OF THE PROPERTY TO PETITIONER'S PARENTS BY RESPONDENT'S PREDECESSOR-IN-INTEREST.

C.

THE COURT OF APPEALS ERRED IN NOT RULING THAT RESPONDENT POSSESSES NO RIGHT TO EJECT PETITIONER FROM THE DISPUTED PROPERTY NOTWITHSTANDING THE UNDISPUTED BONA FIDE AND ACTUAL OCCUPATION BY PETITIONER AND HER PARENTS OF THE LAND