

FIRST DIVISION

[G.R. No. 120864, October 08, 2003]

**MANUEL T. DE GUIA, PETITIONER, VS. COURT OF APPEALS
(FORMER SIXTH DIVISION) AND JOSE B. ABEJO, REPRESENTED
BY HIS ATTORNEY-IN-FACT, HERMENEGILDA ABEJO-RIVERA,
RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This is a Petition for Review on *Certiorari*^[1] assailing the 22 August 1994 Decision^[2] as well as the 27 June 1995 Resolution of the Court of Appeals in CA-G.R. CV No. 39875. The Court of Appeals affirmed the Decision^[3] of the Regional Trial Court ("trial court") of Malolos, Bulacan, Branch 16, in Civil Case No. 8796-M. The trial court's Decision ordered petitioner Manuel T. De Guia ("DE GUIA") to turn over to private respondent Jose B. Abejo ("ABEJO") possession of the one half (½) undivided portion of a fishpond and to pay actual damages and attorney's fees.

The Antecedents

On 12 May 1986, ABEJO^[4] instituted an action for recovery of possession with damages against DE GUIA. In his complaint, ABEJO alleged that he is the owner of the ½ undivided portion of a property used as a fishpond ("FISHPOND") situated in Meycauayan, Bulacan and covered by TCT No. T-6358 of the Bulacan Register of Deeds. He alleged ownership over approximately 39,611 square meters out of the FISHPOND's total area of 79,220 square meters. ABEJO further averred that DE GUIA continues to possess and use the FISHPOND without any contract and without paying rent to ABEJO's damage and prejudice. ABEJO also complained that DE GUIA refuses to surrender ownership and possession of the FISHPOND despite repeated demands to do so after DE GUIA's sublease contract over the FISHPOND had expired. ABEJO asked the trial court to order DE GUIA to vacate an approximate area of 39,611 square meters as well as pay damages.

DE GUIA, a lawyer by profession, appeared on his own behalf. He filed his Answer on 12 January 1990 after the Court of Appeals resolved several issues concerning the validity of the service of summons on him. In his Answer, DE GUIA alleged that the complaint does not state a cause of action and has prescribed. He claimed that the FISHPOND was originally owned by Maxima Termulo who died intestate with Primitiva Lejano as her only heir. According to him, ABEJO is not the owner of the entire FISHPOND but the heirs of Primitiva Lejano who authorized him to possess the entire FISHPOND. He assailed ABEJO's ownership of the ½ undivided portion of the FISHPOND as void and claimed ownership over an undivided half portion of the FISHPOND for himself. DE GUIA sought payment of damages and reimbursement for

the improvements he introduced as a builder in good faith.

The trial court set the pre-trial and required the parties to file their pre-trial briefs. ABEJO filed his pre-trial brief^[5] on 05 April 1990. DE GUIA filed his pre-trial brief^[6] on 31 July 1990. DE GUIA's pre-trial brief raised as the only issue in the case the amount of damages in the form of rent that DE GUIA should pay ABEJO. DE GUIA also submitted an Offer to Compromise,^[7] offering to settle ABEJO's claim for P300,000 and to lease the entire FISHPOND to any party of ABEJO's choice.

Hearing commenced on 30 July 1990. ABEJO rested his case on 4 December 1990. DE GUIA's last witness completed her testimony on 22 November 1991. The trial court summarized the evidence presented by ABEJO and DE GUIA as follows:

Evidence adduced from plaintiff shows that there are two parcels of land covering a fishpond with a total area of 79,220 sq. m. more or less, situated at Ubihan, Meycauayan, Bulacan and covered by TCT No. 6358 equally owned by Primitiva Lejano and Lorenza Araniego married to Juan Abejo (Exh. A). The one half undivided portion owned by Lorenza Araniego corresponding to 39,611 sq. m. was later purchased by plaintiff from his father Teofilo Abejo (Exh. B), the only heir of the original owner on November 22, 1983. Prior to this sale on July 30, 1974 the whole fishpond (79,220) was the subject of a "Salin ng Pamumumisyon ng Palaisdaan" executed by the heirs of Primitiva Lejano with the knowledge and consent of Teofilo A. Abejo in favor of one Aniano Victa and defendant. The contract provided that the period of lease shall be until November 30, 1979. When the contract expired and defendant failed to surrender the fishpond, written demands the last of which was on November 27, 1983 were made for defendants to pay back rental and to vacate the premises in question (Exh. D & E). Defendant refused to deliver possession and also to pay the rentals due. In anticipation, however, that defendant will vacate the fishpond, plaintiff, on December 21, 1983 entered into a two year "Kasunduan ng Buwisan ng Palaisdaan" with Ruperto C. Villarico for a consideration of P50,000.00 (Exh. G). This contract, despite its execution and even already notarized, had to be cancelled and the amount of P50,000.00 returned by plaintiff to Villarico when the defendant did not heed the demand to vacate the fishpond. For unpaid rental, actual as well as moral and exemplary damages, plaintiff asks payment of P450,000.00 and P20,000.00 attorney's fees.

On the other hand, defendant's evidence tends to show that the entire fishpond with an area of 79,200 sq. m. was leased to him by the heirs of Primitiva Lejano. Subsequently, defendant became the absolute owner of one half of the undivided area of the fishpond and he questioned plaintiff's ownership of the other half as void and fraudulent. As to the area pertaining to plaintiff, defendant claimed that he introduced improvements worth P500,000 and being in good faith, he asked that he should be reimbursed by plaintiff. In his pre-trial brief, however, defendant raised the only issue which is the amount of damages plaintiff is entitled to in the form of rental. Hence, the thrust of the testimonies of defendant's witnesses particularly Ben Ruben Camargo and Marta Fernando Peña was the amount of rental of fishponds in the same locality as the fishpond in question at a given time. However, the documentary

evidence (Exhs. 1 and 2) in support of their testimony were not offered as evidence.^[8]

The trial court rendered its decision on 8 June 1992, disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant and hereby orders that:

1. Defendant shall turn over possession to plaintiff one half undivided portion of the 79,200 sq. m. fishpond who shall enjoy the benefits and fruits in equal share with the defendant effective immediately until such time that partition of the property is effected;
2. Defendant shall pay to plaintiff the amount of P262,500.00 by way of actual or compensatory damages;
3. Defendant shall pay plaintiff P20,000.00 as and for attorney's fees; and
4. To pay the costs.

SO ORDERED.^[9]

Aggrieved, DE GUIA went to the Court of Appeals insisting the trial court erred in ordering him to vacate and surrender possession of the ½ undivided portion of the FISHPOND and to pay actual damages and attorney's fees. The Court of Appeals found DE GUIA's appeal without merit and affirmed the trial court's decision. Upon DE GUIA's motion for reconsideration, the appellate court reduced the compensatory damages from P262,500 to P212,500.

Hence, the instant petition.

The undisputed facts as found by the trial court and adopted *in toto* by the Court of Appeals are restated as follows:

1. The subject of the dispute are two undivided parcels of land used as a fishpond situated in Barrio Ubihan, Meycauayan, Bulacan, originally co-owned by Primitiva Lejano and Lorenza Araniego married to Juan Abejo.
2. The FISHPOND is registered under the names of Primitiva Lejano and Lorenza Araniego under TCT No. 6358 of the Bulacan Register of Deeds as follows:

PRIMITIVA LEJANO, Filipina, of legal age, single - ½ share; and LORENZA ARANIEGO, Filipina, of legal age, married to Juan Abejo, ½ share, ---

3. The FISHPOND has a total land area of approximately 79,220 square meters. ABEJO is seeking to recover possession of the ½ undivided portion of the FISHPOND containing 39,611 square

meters.

4. DE GUIA (along with a certain Aniano Victa) acquired possession of the entire FISHPOND by virtue of a document captioned *Salin ng Pamumusisyong ng Palaisdaan* ("Lease Contract") executed between him and the heirs of Primitiva Lejano. The Lease Contract was effective from 30 July 1974 up to 30 November 1979 for a consideration of P100,000.
5. The Lease Contract was executed with the knowledge and consent of Teofilo Abejo, sole heir of Lorenza Araniego Abejo. Teofilo Abejo acquired Lorenza Araniego Abejo's ½ undivided share in the FISHPOND by intestate succession.
6. Teofilo Abejo (now deceased) sold his ½ undivided share in the FISHPOND to his son, ABEJO, on 22 November 1983.
7. DE GUIA continues to possess the entire FISHPOND and to derive income from the property despite the expiration of the Lease Contract and several demands to vacate made by Teofilo Abejo and by his successor-in-interest, ABEJO. The last demand letter was dated 27 November 1983.
8. ABEJO filed his complaint for recovery of possession with damages against DE GUIA on 12 May 1986.
9. DE GUIA's claim of ownership over the other ½ undivided portion of the FISHPOND has not been finally adjudicated for or against him.

DE GUIA offers the verified *Complaint for Annulment of Real Estate Mortgage and Contract of Lease with Preliminary Injunction* signed by the heirs of Primitiva Lejano as proof of his ownership of the other undivided half portion of the FISHPOND. Records show that DE GUIA filed the complaint for himself and as attorney-in fact of the heirs of Primitiva Lejano ("Lejano Heirs")^[10] against Spouses Teofilo Morte and Angelina Villarico, Spouses Ruperto and Milagros Villarico, et al. ("Defendants"). The case was raffled to Branch 12 of the Regional Trial Court of Malolos, Bulacan, and docketed as Civil Case. No. 86-27-M. The complaint alleged that DE GUIA acquired his ½ undivided share in the FISHPOND from the Lejano Heirs in February 1986. DE GUIA and the Lejano Heirs sought to annul the *Kasulatan ng Sanglaan* and *Kasulatan ng Pagbubuwis ng Palaisdaan*, executed on 10 November 1979 by Primitiva Lejano in favor of the Defendants. DE GUIA and the Lejano Heirs claimed that Primitiva Lejano signed these documents under duress and without consideration.

The trial court rendered judgment^[11] on 28 February 1992 against DE GUIA and the Lejano Heirs as follows:

WHEREFORE, the evidence having shown the plaintiffs, particularly Manuel De Guia, their successor-in-interest, not entitled upon the facts and the law to the relief prayed for in the amended complaint, the same is hereby DISMISSED with costs against said plaintiff. Instead, as prayed for by defendants, judgment is hereby rendered:

1. - Declaring the "Kasulatan ng Sanglaan" (Exhs. "A" & "1") dated November 10, 1979, and the "Kasulatan ng Pagbubuwis ng Palaisdaan" (Exhs. "C" & "3") also dated November 10, 1979, as valid for all legal intents and purposes;
2. - Ordering the Ex-Officio Sheriff, RTC, Bulacan, to proceed with the extrajudicial foreclosure of the subject real estate mortgage; and
3. - Ordering plaintiffs to pay defendants attorney's fees in the amount of P20,000.00.

SO ORDERED.^[12]

The Court of Appeals affirmed the trial court in a Decision dated 30 August 2002 in CA-G.R. CV No. 38031. The Court of Appeals found the claim of force and intimidation in the execution of the documents as highly improbable since Primitiva Lejano's son, Renato Davis, witnessed the signing of the documents and found nothing irregular at the time. The appellate court also held that assuming Defendants threatened DE GUIA and the Lejano Heirs with immediate foreclosure, Defendants were merely exercising their legitimate right of foreclosing the mortgaged property for non-payment of the loan. In addition, Primitiva Lejano's lawyer and notary public, Atty. Mamerto Abaño, testified that the parties appeared before him to affirm the contents of the documents. He also stated that he was present when Defendants paid Primitiva Lejano Davis and her son Renato. As of this writing, DE GUIA has a pending motion for reconsideration before the Court of Appeals. In the event the Court of Appeals' Decision attains finality, DE GUIA may lose whatever right he claims over the FISHPOND.

The Trial Court's Ruling

The trial court ruled that ABEJO has the right to demand that DE GUIA vacate and surrender an area equivalent to ABEJO's ½ undivided share in the FISHPOND. The trial court explained that DE GUIA's sublease contract expired in 1979 and ABEJO acquired his father's share in 1983. However, the trial court pointed out that ABEJO failed to present evidence of the judicial or extra-judicial partition of the FISHPOND. The identification of the specific area pertaining to ABEJO and his co-owner is vital in an action to recover possession of real property. Nevertheless, the trial court declared that pending partition, it is only just that DE GUIA pay ABEJO a reasonable amount as rental for the use of ABEJO's share in the FISHPOND. DE GUIA admitted this obligation when he raised as sole issue in his pre-trial brief how much rent he should pay ABEJO. DE GUIA even proposed P300,000 as the reasonable amount but under certain conditions which ABEJO found unacceptable.

In determining the reasonable rent due to ABEJO, the trial court considered the Lease Contract between ABEJO and a certain Ruperto C. Villarico which provided for a yearly rent of P25,000 for ½ undivided portion of the FISHPOND. The trial court declared that the total amount of rent due is P212,500, computed from November 1983 when ABEJO became a co-owner of the FISHPOND up to 1991^[13] or a period of eight and one half years. The trial court further ordered DE GUIA to pay an additional P50,000 which represents the amount ABEJO returned to Ruperto C.