

THIRD DIVISION

[G.R. No. 116109, September 14, 1999]

JACINTO OLAN AND RENATO EBALLE, PETITIONERS, VS. COURT OF APPEALS, SPOUSES LIBRADO F. VILLANUEVA AND TOMASA L. IGNACIO, RESPONDENTS.

DECISION

GONZAGA-REYES, J.:

Before us is a Petition for Review on Certiorari^[1] and Mandamus to set aside the Resolution of the Court of Appeals^[2] on April 11, 1994 in CA-GR. SP No. 31618 entitled "JACINTO OLAN and RENATO EBALLE versus Hon. Eustaquio P. Sto. Domingo, Presiding Judge of Regional Trial Court of Calamba, Laguna, Branch 35, et. al.", which dismissed herein petitioner's Petition for Review, and to order the respondent Court of Appeals to allow petitioners to submit evidence in support of their contention that the lot they were possessing was not the lot described in the dispositive portion of the decision of the Municipal Trial Court in Ejectment Case No. 979.

Petitioners Jacinto Olan and Renato Eballe were defendants in Ejectment Case No. 929 in the Municipal Trial Court (MTC) of Los Baños, Laguna filed by herein respondent spouses Librado Villanueva and Tomasa Ignacio. The MTC^[3] ordered OLAN and EBALLE to entirely vacate Lot 3839 and Lot 3842, both of the Los Baños Cadastre 450-D, situated at Brgy. Timugan, Los Baños, Laguna, which lots said defendants are now unlawfully occupying, and to turn them over to the possession of plaintiffs LIBRADO VILLANUEVA and TOMASA L. IGNACIO^[4]

Petitioners appealed the decision to the Regional Trial Court (RTC) of Calamba, Laguna which affirmed the decision of the MTC. A writ of execution pending appeal was granted by the RTC which petitioners moved to quash in the Court of Appeals^[5] (CA. G.R. No. 30812) on the ground that the lot occupied by petitioners was different from the lots ordained or decreed in the dispositive portion of the MTC decision. The Motion to Quash the writ of execution was denied for failure to file a bond to stay execution; the court added that:

"Furthermore, the Motion to Quash Writ of Execution" dated March 4, 1993 and "Motion to Relocate Lots subject Matter of Writ of Execution" dated March 24, 1993, filed by counsel for defendants on the ground that defendants were occupying a different lot (Lot 8253) from that which is the object of the writ of execution of Lot 3839 or 3842, subject matter of the decision (the Motion for Relocation having been reiterated before this court by counsel for petitioner), were correctly denied by the Municipal Court of Los Baños, Laguna, in Civil Case No. 979, on October 1, 1982, which judicially inspected the property in question, the parties therein, including the petitioner being present, which inspection of the property

was even a part of the order of the Regional Trial Court, Branch 37, Calamba, Laguna, in Civil Case No. 176-83-C, on February 9, 1983, without petitioners questioning or raising the issue that the property object of the ocular inspection and now subject of the writ of execution was a property different from that which is the object of the complaint and decision of the court.

It should be noted that it was not until a writ of execution of the decision in Civil Case No. 979 of the Municipal Trial Court pending appeal was issued by respondent court on January 23, 1993 that respondents claimed for the first time that the lot, subject of the ocular inspection and subject matter of the decision, was not the lot in question."^[6]

Meanwhile, petitioners appealed the decision of the RTC to the Court of Appeals (C.A. G.R. No. 31618) which affirmed the RTC decision.^[7] The Court of Appeals ruled that:

"In their petition for review, the herein petitioners simply reiterates/repeats their above-mentioned argument that the lot occupied by Olan is not the lot "ordained or decreed to be delivered to respondents herein in the dispositive portion of the decision of the Municipal Trial Court of Los Baños, Laguna, which decision was affirmed in toto by the Regional Trial Court on appeal"^[8]

Petitioner's Motion for Reconsideration was denied^[9]. Hence this petition, wherein petitioners raise the following issues:

- I. WHETHER OR NOT THE DECISION IN CIVIL CASE NO. 979 IN THE MUNICIPAL TRIAL COURT OF LOS BAÑOS, LAGUNA, HAS BECOME FINAL AND EXECUTORY.
- II. ASSUMING THAT THE DECISION IN CIVIL CASE NO. 979 HAS NOT ATTAINED FINALITY, WHETHER OR NOT PUBLIC RESPONDENT COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DISMISSING C.A. G.R. NO. 31618.
- III. AGAIN ASSUMING THAT THE DECISION IN CIVIL CASE NO. 979 HAS NOT ATTAINED FINALITY, WHETHER OR NOT PUBLIC RESPONDENT CAN BE COMPELLED TO ORDER A HEARING AND RECEIVE NEW EVIDENCE PURPORTING TO SHOW THAT THE PARCEL OF LAND UNDER QUESTION IS IN THE NAME OF PETITIONER JACINTO OLAN.^[10]

Petitioners argue that the decision of the MTC in Civil Case No. 979 never attained finality. In support of this argument, petitioners claim that the dispositive portion of the MTC decision stated that the adjudication of the court was "without prejudice to whatever final action the Department of Natural Resources/Bureau of Lands may take on the pending sales application". Thus, the decision was incomplete since it left other matters to be done. Moreover, petitioners seek to compel the Court of Appeals through the Writ of Mandamus to receive into evidence a certification made by the Department of Environment and Natural Resources (DENR) to the effect that

the lot possessed by petitioner OLAN is different from the lots decreed in the dispositive portion of the decision as newly discovered evidence.^[11]

We resolve to deny the petition.

Petitioners fault the Court of Appeals for not admitting the certification made by the DENR as “newly discovered evidence” – to show that OLAN was not in possession of the lots in question i.e. Lot Nos. 3839 and 3842 but Lot No. 8253.^[12]

We are not persuaded that the Court of Appeals committed any reversible error.

Sections 1 and 2, Rule 37 of the 1964 Rules of Court as amended^[13] read:

“SECTION 1. *Grounds of and period for filing motion for new trial.* – Within the period for perfecting appeal, the aggrieved party may move the trial court to set aside the judgment and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights;

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered, and produced at the trial, and which if presented would probably alter the result;

(c) Award of excessive damages, or insufficiency of the evidence to justify the decision, or that the decision is against the law.

SEC. 2. *Contents of motion for new trial and notice thereof.* – The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

When the motion is made for the causes mentioned in subdivisions, (a) and (b) of the preceding section, it shall be proved in the manner provided for proof of motions. Affidavit or affidavits of merit shall also be attached to a motion for the cause mentioned in subdivision (a) which may be rebutted with counter-affidavits. xxx”

Instead of filing a petition for review of the RTC decision affirming the MTC and a motion to quash the writ of execution issued by the RTC, merely attaching thereto the alleged “newly discovered evidence”, petitioners should have filed a motion for new trial with the RTC on the ground of newly discovered evidence in accordance with the aforequoted Rule 37 of the 1964 Rules of Court. Petitioners failed to support their claim with affidavits to show compliance with the following requisites for newly discovered evidence as a ground for new trial: (a) the evidence was discovered after the trial; (b) such evidence could not have been discovered and produced at the trial with reasonable diligence; and (c) that it is material, not merely cumulative, corroborative or impeaching, and is of such weight that, if