

## FIRST DIVISION

[ G.R. No. 110921, January 28, 1998 ]

**BALTAZAR L. VILLANUEVA, PETITIONER, VS. HON. COURT OF APPEALS, GRACE OPPUS VILLANUEVA, FRANCISCO O. VILLANUEVA, AND MA. PAS O. VILLANUEVA, RESPONDENTS.\***

### DECISION

#### KAPUNAN, J.:

Petitioner assails the Court of Appeals' Decision dated July 12, 1993 enjoining the Regional Trial Court from proceeding with Civil Case No. 91-10741 on grounds of *res judicata*.

On March 16, 1989, herein petitioner filed a complaint for reconveyance of a property with damages, docketed as Civil Case No. Q-89-2002 against Grace O. Villanueva and Francisco O. Villanueva.

The complaint alleged that:

1. Plaintiff is of legal age, Filipino, single, and resident of Tagudin, Ilocos Sur. Defendants Grace O. Villanueva and Francisco O. Villanueva, are both of legal age, Filipinos, widow and single, respectively, and residents of 55 Jaime Laya Street, BF Homes, Paranaque, Metro Manila, where they may be served with summons and other court processes.
2. Romeo L. Villanueva, brother of the plaintiff and Gaudencio L. Villanueva (late husband of defendant Grace O. Villanueva), died single and intestate on July 10, 1983 at Tagudin, Ilocos Sur, leaving behind a property consisting of a parcel of land situated at Project 6, Quezon City and described and registered in his name under Transfer Certificate of Title No. 132256 of the Registry of Quezon City together with a residential house erected thereon, which, for purposes of brevity is hereinafter referred to as the "Project 6 property." x x x
3. At the time of his death, Romeo L. Villanueva was survived by his mother, the late Victoria L. Villanueva, as his sole compulsory heir, and his two brothers, the plaintiff and Gaudencio L. Villanueva.
4. On October 6, 1983, Victoria L. Villanueva executed an extrajudicial settlement of the estate of Romeo L. Villanueva, wherein she waived her right over the "Project 6 property" in favor of Gaudencio L. Villanueva. x x x. This extrajudicial settlement (Annex "B"), however, was not registered with the Office of the Register of Deeds of Quezon City because the same was subsequently revoked, and set aside by Victoria L. Villanueva for failure to reflect certain conditions as well as her true intention. After the death of Gaudencio L. Villanueva, defendant Grace O. Villanueva took the initiative of

requesting her counsel, Atty. Guirda Sajol-Tiempo of Quezon City to prepare a new document of extrajudicial settlement which was signed and acknowledged by her and her son, Gaudencio C. Villanueva, Jr. on March 30, 1984 before Notary Public Guirda Sajol-Tiempo at Quezon City. Thereafter, the same extrajudicial settlement of the estate of Romeo L. Villanueva was brought to Tagudin, Ilocos Sur for the approval and signature of Victoria L. Villanueva. On April 16, 1984, Victoria L. Villanueva signed the said document. Under the said extrajudicial settlement, Victoria L. Villanueva adjudicated the "Project 6 property" in favor of the plaintiff and Gaudencio O. Villanueva, Jr., son of Gaudencio L. Villanueva and defendant Grace O. Villanueva, on a fifty-fifty basis. x x x.

x x x

6. The owner's duplicate copy of TCT No. 132256 was not lost. The same was surrendered by Modesta Valdez, common-law spouse of the late Romeo L. Villanueva to the plaintiff few months after the death of Romeo L. Villanueva, a fact, very well-known to defendant Grace O. Villanueva.
7. Defendant Grace O. Villanueva, being the one residing at Quezon City, was entrusted with the original and duplicate copies of Annex "C" and was requested by the heirs to attend to the registration thereof with the Registry of Deeds of Quezon City. Plaintiff came to know later that defendant did not take any action on it.
8. Sometime in September 1989, Atty. Benigno Lapitan, hereinafter referred to as Lapitan, with whom plaintiff leased the premises of the "Project 6 property" received a notice of termination of lease and demand to vacate the "Project 6 property" from defendant Grace O. Villanueva and her counsel, David R. Advincula, Jr. In the same demand, defendant Grace O. Villanueva informed Lapitan that she and her "minor children in the persons of Gaudencio O. Villanueva, Jr., Francisco Villanueva and Maria Paz O. Villanueva-Sison are now the registered owners" of the "Project 6 property." x x x.

x x x            x x x            x x x.

12. All along defendant Grace O. Villanueva knew that the owner's duplicate copy of TCT No. 132256 was not lost. She knew also that the same is in the possession and custody of the plaintiff. So that even while Spl. Proc. No. 0563-T was pending before the Regional Trial Court of Ilocos Sur, defendant Grace O. Villanueva obtained through fraud, deceit, and misrepresentation a judgment from the Regional Trial Court of Quezon City, Branch 98, ordering the issuance of a new owner's duplication copy of TCT No. 132256 of the Registry of Deeds of Quezon City. This enabled her to have actual possession of the owner's duplicate copy of TCT No. 132256 and made possible the transfer from TCT No. 132256 to TCT No. 373264 and from TCT No. 373264 to TCT No. 376583 wherein defendant Grace O. Villanueva was made a 5/8 owner of the entire "Project 6 property", thereby ousting the plaintiff from his lawful participation and reducing the participation of Gaudencio O. Villanueva, Jr. from 1/2 to 1/8 of the said property.
13. Defendants are merely holding the property in trust and have a legal duty to reconvey the same to the plaintiff and to Gaudencio O. Villanueva, Jr.

14. In view of the acts of the defendants in obtaining judgment through deceit, misrepresentation, and fraudulent means, as well as in causing the illegal transfer of the property from Romeo L. Villanueva to her as a 5/8 participant, and to Francisco Villanueva who is not a son of Gaudencio L. Villanueva, as 1/8 participant, and in order to protect his rights, plaintiff was constrained to institute this action and incur litigation expenses and attorney's fee, the reasonable sum of which should not be less than Fifty Thousand Pesos (P50,000.00). It is but reasonable and fair that plaintiff recovers this amount from the defendant.<sup>[1]</sup>

Unfortunately, the complaint for reconveyance was dismissed on October 29, 1990 for failure of the plaintiff and his counsel, Atty. Benjamin D. Turgano to appear during the pre-trial on August 19, 1990 and the trial on October 29, 1990 for lack of interest to pursue the case. A motion for reconsideration was filed to reinstate the complaint but was denied on January 30, 1991 for lack of merit. The order of denial states:

Plaintiff seeks reconsideration of the Order dated 29 October 1990 dismissing the Complaint for failure of the plaintiff and his Counsel, Atty. Benjamin D. Turgano to appear during the pre-trial on August 19, 1990 and the trial on 29 October 1990 for lack of interest to pursue the case.

Defendant interposed opposition to the reconsideration of the above order on grounds that plaintiff and his counsel have not justified their absence during the pre-trial of this case on 19 August 1990, and the plaintiff on 29 October 1990, inspite of due notice.

Finding the plaintiffs' motion for reconsideration of the Order above-stated not well-taken and not meritorious, the Court sustained the dismissal of the Complaint and the plaintiff and his counsel are non-suited. (Sec. 2, Rule 20, Rules of Court).

Therefore, the above motion for reconsideration dated 24 November 1990 is hereby Denied.

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

On November 26, 1991, petitioner filed another complaint docketed as Civil Case No. Q-91-10741. The complaint was for annulment of title and damages with prayer for a temporary restraining order and/or writ of preliminary injunction involving the same real property. Included as defendants were Ma. Pas O. Villanueva and the Register of Deeds of Quezon City. The complaint reads:

1. Plaintiff is of legal age, Filipino, single and a resident of Tagudin, Ilocos Sur;
2. Defendants Grace O. Villanueva, Francisco O. Villanueva and Ma. Pas O. Villanueva are all of legal age, Filipinos and are residents of No. 401 Kaimito Road, Valle Verde 3 Valle Verde Homes, Pasig, Metro Manila, where they may be served with the summons and other processes of this Honorable Court;
3. Defendant Registrar of Deeds of Quezon City (hereinafter referred as, REGISTRAR) is herein impleaded in his capacity as such charged with the

registration of dealings of registered lands in Quezon City as well as the concomitant issuance of new titles by reason of the foregoing, and he may be served with the summons and other processes of this Honorable Court at the Register of Deeds of Quezon City, Quezon City, Metro- Manila;

4. The late Romeo Villanueva is the brother of the plaintiff and who is the registered owner in fee simple of that parcel of land with improvements thereon situated at No. 2-E Alley 15, Project 6, Quezon City, Metro Manila and covered by Transfer Certificate of Title No. 132256 of the Register of Deeds for Quezon City, Metro Manila, the owner's duplicate copy thereof is in the possession of the herein plaintiff, x x x;
5. The late Romeo L. Villanueva died single and intestate on July 10, 1983 as evidenced by his Death Certificate issued by the Local Civil Registrar of Tagudin, Ilocos Sur, x x x;
6. At the time of his death, Romeo L. Villanueva was survived by his mother, Victoria L. Villanueva (now deceased) as his sole compulsory heir, and his two brothers, the plaintiff herein and Gaudencio L. Villanueva, Sr. (now deceased) who was the husband of defendant Grace Oppus Villanueva and the father of defendants Gaudencio, Jr. and Ma. Pas O. Villanueva-Sison.
7. In 1984, the late Victoria L. Villanueva, executed the Extrajudicial Settlement of Estate with Waiver over the property of the late Romeo L. Villanueva covered by TCT No. 132256 waving all her rights thereon in favor of the plaintiff and Gaudencio Villanueva, Jr., share and share alike, thereby constituting them as co-owners over the abovesaid property, which extrajudicial settlement was duly published as required by law, x x x;
8. Defendant Grace Villanueva, the mother of Gaudencio, Jr., who represented his said son, was thereupon entrusted with the documents abovementioned and who was tasked to register the same and to obtain the new title in the names of plaintiff and Gaudencio, Jr. hence, the original copies of the said document and paper are in her possession but despite thereof, with the evident intent to defraud herein plaintiff and in gross and palpable violation of her undertaking and impelled by malic (sic) and bad faith, failed and did not register the said documents with the defendant Register of Deeds;
9. Considering their filial and family relations, plaintiff did not have even the slightest inkling that defendant Grace Villanueva would deprive and defraud him of the said property;
10. On April 26, 1985, plaintiff's mother, Victoria L. Villanueva died x x x ;
11. Plaintiff had been the one paying the real property taxes of the subject property up to the present as evidenced by the receipts in his possession to the foregoing effect;
12. In the exercise of his proprietary right as the co-owner of the subject property under TCT No. 132256, herein plaintiff leased the abovesaid property to the present lessee and occupant of the subject property, Cristeta Lapitan, as evidenced by the Contract of Lease dated August 15, 1985, which had been

renewed actually after the expiration thereof, x x x;

13. To further show that the plaintiff had always exercised his proprietary right as the co-owner of the abovesaid property, he filed an application for the administrative reconstitution of the title covering the abovesaid property, TCT No. 132256, whose owner's duplicate copy thereof always remained in his possession, considering that the original copy of TCT No. 132256 which was on file with the defendant Registrar of Deeds, was among the documents burned and destroyed by the fire that gutted the Quezon City Hall wherein the Office of the Register of Deeds of Quezon City was then housed, in 1988, x x x;
14. Subsequently, plaintiff learned that Grace O. Villanueva without, his consent and through fraud, deceit, ploy and machinations was able to secure a new title in the name of plaintiff's deceased brother, Gaudencio L. Villanueva, making it appear that it is a transfer from TCT No. 132256, on December 21, 1987, x x x;
15. Subsequently defendant Grace O. Villanueva continuing with her deceitful and fraudulent acts to deprive the plaintiff of the aforesaid property, was able to transfer anew the title in the names of her co-defendants, except for defendant Registrar, who are her children, which property is now titled under TCT No. 376583 issued on February 1, 1988, xxx;
- 15a. Having completed her fraudulent machinations, defendant Grace O. Villanueva thereupon instituted the ejectment suit against the lessee of the property, Cristeta Lapitan, xxx;
16. Defendant Grace O. Villanueva, through fraud, deceit, ploy and machinations aimed at depriving the plaintiff of his co-ownership over the subject property, was able to secure the title in their names hence, under the circumstances, TCT No. 376583 is a total and absolute nullity and as such should be voided;
17. Further, the validity and effectivity still of TCT No. 132256 of the Registry of Deeds for Quezon City should be upheld and sustained and that the defendant Registrar of Deeds should be ordered to cancel the foregoing TCT No. 376583 and TCT No. 373264 and forthwith, to refrain from transferring anew the title of the said property except if it duly proceeds from TCT No. 132256 through the plaintiff and Gaudencio Villanueva, Jr. and/or other legal means;
18. Due to the foregoing malicious, immoral, illegal and unjust acts and conduct of defendant Grace O. Villanueva, which exposed him to public ridicule, social embarrassments and besmirched reputation considering that the lessee has been disturbed in her supposed peaceful occupation of the subject property, plaintiff likewise suffered anxiety, mental anguish, wounded feelings, fright and sleepless nights, thereby entitling herein plaintiff to an award for moral damages in the sum of not less than P200,000.00;
19. To serve as an example to deter others from following the unjust, immoral, illegal and unethical acts and conduct of defendant Grace O. Villanueva as above narrated, said defendants must likewise be held liable for exemplary damages in the amount of not less than P100,000.00;