

## SECOND DIVISION

[ G.R. No. 120941, April 18, 1997 ]

**NENA DE GUZMAN, PETITIONER, VS. COURT OF APPEALS, AND  
IGNACIO RANESES, ET AL., RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

This is a petition for review under Rule 45 of the Rules of Court to set aside the decision of the Court of Appeals in CA G.R. No. 40738-CV entitled *Nena de Guzman v. Ignacio Raneses, Isagani Raneses and Hon. Lilian Dinulos-Pamontongan*, which affirmed the decision of Branch 76 of the Regional Trial Court of San Mateo, Rizal, ordering petitioner to vacate the premises subject of the petition.<sup>[1]</sup>

The facts show that on July 6, 1988, an ejectment case, dated April 15, 1988 and docketed as Civil Case No. 717, was filed by private respondents Isagani and Ignacio Raneses against petitioner Nena de Guzman before the Municipal Trial Court of San Mateo, Rizal.<sup>[2]</sup> It was alleged that in 1986, petitioner, through stealth, unlawfully constructed a house within the 4.5 hectare lot owned by private respondents in Labahan, San Mateo, Rizal.<sup>[3]</sup> Despite receipt of two demand letters from private respondents, petitioner refused to vacate the premises. On July 27, 1988, summons and a copy of the complaint were served on petitioner through her daughter Nancy de Guzman, a person of sufficient age and discretion. When petitioner failed to file her answer within the reglementary period, private respondents moved for summary judgment.<sup>[4]</sup> On August 17, 1988, a judgment by default was rendered by Municipal Trial Court Judge Apolinar T. Antazo ordering petitioner to vacate the disputed lots and to pay the private respondents P2,000.00 as attorney's fees and the costs of suit.<sup>[5]</sup> On October 18, 1988, the Municipal Trial Court issued a Writ of Execution against the petitioner. On October 27, 1988, petitioner's counsel filed a Motion for Reconsideration and/or to Set Aside the Decision. The Municipal Trial Court denied the Motion and granted the Writ of Execution. On January 19, 1989, petitioner filed with the Regional Trial Court of San Mateo, Rizal a Petition for Relief from Judgment, Injunction and Damages, docketed as Civil Case No. 540-SM. Petitioner argued that she was denied due process of law because the summons was not properly served on her.<sup>[6]</sup> Allegedly, the deputy sheriff resorted to substituted service of summons without exerting any effort to find the petitioner. She also assailed the jurisdiction of the Municipal Trial Court to try the forcible entry case on the ground that the complaint was filed two years after her alleged unlawful entry into the premises. On February 23, 1989, private respondents filed their answer to the petition. After giving due course to the petition, the Regional Trial Court, on July 10, 1992, rendered its decision sustaining petitioner's contention that the service of summons was improper and the ejectment suit was filed out of time. It ruled that to enable the Municipal Trial Court to acquire jurisdiction over the person of the petitioner through substituted service of

summons, it is necessary to show the impossibility of personal service which should be explained in the proof of service.<sup>[7]</sup> It also found undisputed that the forcible entry case was filed two years after the alleged occupation of the land through stealth by petitioner; hence, the action has prescribed.

The Regional Trial Court further received evidence on the ownership of the disputed lot.<sup>[8]</sup> It held that the evidence showed that petitioner acquired her "rights" to the property by purchase from persons who were mere tenants on the property while private respondents' claim over the property was supported by documentary proofs of ownership.<sup>[9]</sup> Thus, it ordered petitioner to vacate the lot in dispute.

Within the reglementary period, petitioner, through counsel, filed her appeal with the Court of Appeals contending that:

"THE TRIAL COURT ERRED IN DECIDING THE MERITS OF THE CASE AT ONCE WITHOUT ISSUING ANY PRIOR ORDER SETTING ASIDE THE DECISION OF THE MUNICIPAL TRIAL COURT.

"THE TRIAL COURT ERRED IN NOT DISMISSING THE FORCIBLE ENTRY CASE (PRINCIPAL ACTION) FILED BY THE APPELLEES AFTER IT DECLARED THAT THE SAID ACTION WAS FILED OUT OF TIME AND THAT THE LOWER COURT HAD NO JURISDICTION OVER THE SAME.

"THE TRIAL COURT ERRED IN RESOLVING THE ISSUE OF OWNERSHIP AND DECLARING THAT APPELLEES ARE THE OWNERS OF THE PROPERTY SUBJECT OF THE EJECTMENT SUIT AND THAT THEY ARE ENTITLED TO ITS POSSESSION."

On January 24, 1995, the Court of Appeals sustained the decision of the Regional Trial Court. It held that: (1) petitioner chose the wrong remedy when it filed its petition for relief from judgment for there was no indication of fraud, accident, mistake or excusable negligence on her petition which would merit relief from the decision of the Municipal Trial Court. It ruled that petitioner's proper remedy was appeal, and since it did not do so, the decision of the Municipal Court became final and executory;<sup>[10]</sup> and (2) petitioner failed to prove her ownership or any right to possess the disputed lot for her predecessor-in-interest was a mere squatter.<sup>[11]</sup> Petitioner's Motion for Reconsideration was denied in a Resolution dated June 27, 1995. Hence, this appeal with the following assignments of error:

"THE RESPONDENT COURT DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND THE APPLICABLE DECISIONS OF THIS HONORABLE COURT IN NOT RULING THAT THE REGIONAL TRIAL COURT ERRED IN NOT DISMISSING THE FORCIBLE ENTRY CASE (PRINCIPAL ACTION) AFTER IT DECLARED THAT THE SAID ACTION WAS FILED OUT OF TIME AND THAT THE LOWER COURT HAD NO JURISDICTION OVER THE SAME.

"THE RESPONDENT COURT DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW OR THE APPLICABLE DECISION OF THE HONORABLE COURT IN AFFIRMING THE DECISION OF THE REGIONAL