

EIGHTEENTH DIVISION

[CA G.R. SP NO. 04924, March 27, 2014]

**EIGHTEENTH (18th) DIVISION ROCKY HILLS VILLAGE
ASSOCIATION, INC., PETITIONER, VS. SPOUSES RODOLFO
CUENCO AND CRISTETA CUENCO, RESPONDENTS.**

D E C I S I O N

DIY, J.:

Before Us is a Petition for Review^[1] under Rule 42 of the 1997 Rules of Civil Procedure. The instant case stemmed from a complaint^[2] for ejectment, filed by herein petitioner Rocky Hills Village Association, Inc. (hereafter referred to as "Rocky Hills") against respondent spouses Rodolfo Cuenco and Cristeta Cuenco (hereafter referred to as "Sps. Cuenco") with the Municipal Trial Court of Cebu City ("MTC", for brevity), specifically Branch 6 thereof.

The Facts of the Case

The subject of this controversy refers to two parcels of land namely: (1) Lot No. 6157-C-3-P covered by Transfer Certificate of Title (TCT) No. 164914;^[3] and (2) Lot No. 6157-C-3-Q covered by TCT No. 164915.^[4] Both landholdings are located in Tisa, Labangon, Cebu City and are hereafter collectively referred to as the subject landholdings.

Rocky Hills is the registered owner of a parcel of land designated as Lot No. 6157-C-3, consisting of 5,668 square meters, located in Tisa, Labangon, Cebu City and covered by TCT No. 113152.^[5] The property was subdivided into smaller lots for which individual titles were issued, two of which are the subject landholdings.

Sometime in October of 2006, the Sps. Cuenco allegedly entered and took possession of the subject landholdings. Rocky Hills, through its President, Medardo Pedrano, demanded that the Sps. Cuenco vacate the premises. On November 21, 2006, Rocky Hills made a formal written demand,^[6] which was ignored by the Sps. Cuenco.

On December 21, 2006, Rocky Hills filed with the MTC a complaint dated December 18, 2006 against the Sps. Cuenco, praying for their ejectment from the subject landholdings.

In their answer,^[7] the Sps. Cuenco claimed ownership over the subject landholdings. They alleged that they bought the same from the Sps. Manuel and Josefina Galanto (hereafter referred to as "Sps. Galanto") on October 25, 1991, who in turn, bought the property from Sps. Arsenio and Mercedes Madarang (hereafter referred to as "Sps. Madarang") on November 10, 1989. The portions sold, which at

that time still formed part of TCT 113152, were later purchased by the Panagtambayayong Foundation, Inc. After the property was developed into a subdivision, it was turned over to Rocky Hills. All the issued lot titles were registered in the name of Rocky Hills, including the subject landholdings.

After their purchase of the subject lots from the Sps. Galanto, the Sps. Cuenco allowed the Sps. Galanto to continue occupying the subject landholdings on the condition that the latter shall voluntarily vacate the premises by the end of the year, per the Memorandum of Agreement they executed in June of 1995. By reason of the Sps. Galanto's non-compliance with the terms and conditions of the agreement, the Sps. Cuenco filed Civil Case No. R-4978 for ejectment. On April 6, 2006, a Decision was rendered therein ordering the Sps. Galanto to turn over the possession of the contested lots to the Sps. Cuenco. Since October 20, 2006, the Sps. Cuenco have been in physical possession of the subject landholdings. The Sps. Cuenco demanded from Rocky Hills the surrender of the titles covering the subject landholdings to them, but Rocky Hills refused to heed their demand.

On November 8, 2007, the Sps. Cuenco, this time, filed before Branch 10, Regional Trial Court (RTC) of Cebu City a separate complaint^[8] for quieting of title, reconveyance and damages with prayer for the issuance of a temporary restraining order/preliminary injunction, against Rocky Hills, Panagtambayayong Foundation, Inc., and Medardo Pedrano (Civil Case No. CEB-33841).

The Ruling of the MTC

On July 4, 2008, the MTC rendered its decision^[9] in this controversy under review (the complaint for ejectment), the dispositive portion of which provides:

WHEREFORE, from all the foregoing, judgment is hereby rendered DISMISSING the case against the defendants for insufficient cause of actions [sic] and directing plaintiff to pay defendants the amount of P20,000.00 as Attorney's fees and P10,000.00 litigation expenses.

SO ORDERED.

As reason for such ruling, the MTC found that the complaint of Rocky Hills recites a case of forcible entry and not unlawful detainer. Being a case of forcible entry, the fact of prior physical possession disturbed through stealth which was unlawful from the beginning must be alleged in the complaint. According to the MTC, Rocky Hills failed to state or allege the fact of its prior physical possession of the subject landholdings. Such defect is fatal to the claim of Rocky Hills. The MTC added that if Rocky Hills is indeed the owner of the subject landholdings and that it was unlawfully deprived of the real right of possession or ownership thereof, it should present its claim before the Regional Trial Court in an *accion publiciana* or an *accion reivindicatoria* and not before the MTC in a summary proceeding.

As explained by the MTC, even if one is the owner of the property, the possession thereof cannot be wrested from another who had been in physical or material possession of the same by lawful means. This case likewise cannot be considered an unlawful detainer suit because the Sps. Cuenco neither unlawfully withheld possession of the subject landholdings nor are they lessees or occupants of the premises by tolerance. The Sps. Cuenco firmly contended that they are the lawful

owners of the subject landholdings, being in actual physical possession thereof and having secured favorable judgment in the ejectment case filed before Branch 8, MTCC, Cebu City (Civil Case No. R-4978).

On December 12, 2008, Rocky Hills filed its Notice of Appeal of the July 4, 2008 Decision rendered by the MTC. Rocky Hills assigned to the lower court the following errors:

- 1.) It had failed to appreciate the fact that therein plaintiff is the registered owner of the lot in issue under the Torrens System and only wanted to exercise the attributes of ownership.
- 2.) It made an oversight in dismissing the case on the ground that the same is forcible entry and not unlawful detainer when the complaint never specifically mentioned unlawful detainer as the ground for ejectment. And as could be clearly gleaned in the body of the complaint, the ground for ejectment is entry due to stealth.
- 3.) It erred in ordering the plaintiff to pay attorney's fees and litigation expenses to the defendants when the instant case was filed in utmost good faith.

The Ruling of the RTC, Branch 7

On October 22, 2009, the RTC, Branch 7 rendered its decision^[10] in this controversy under appeal, the dispositive portion of which provides:

Hence, the Court sets aside the judgment in the Decision dated July 4, 2008, issued by the lower court in Civil Case No. R-52307 and in its place directs plaintiff-appellant Rocky Hills Village Association, Inc.:

1. To deliver the titles TCT No. 164914 & TCT No. 164915, free from all liens and encumbrances, to defendants-appellees Sps. Rudolfo and Cristeta Cuenco, who are the owners of Lot No. 6157-C-3-P & Lot No. 6157-C-3-Q;
2. To pay attorney's fees in the amount of P20,000.00;
3. To pay litigation expenses in the amount of P10,000.00; and
4. To pay the costs.

SO ORDERED.

As reason for such ruling, the RTC stated that the action is neither one of forcible entry nor unlawful detainer but essentially involves ownership over the subject landholdings, which must be resolved in an *accion reivindicatoria*.

As explained by the RTC, what determines the cause of action in forcible entry and unlawful detainer is the nature of the defendant's entry into the land. In this case, the Sps. Cuenco's entry was under colorable title and not by force, intimidation,

threat, strategy, or stealth, as alleged by Rocky Hills.

Rocky Hills claims ownership over the subject landholdings, as evidenced by Torren's titles issued in its name. The Sps. Cuenco, on the other hand, also profess ownership over the same by virtue of a Deed of Absolute Sale in their favor, among others. According to the RTC, from these two directly opposing positions, a legitimate issue of ownership emerges. Thus, the RTC concluded that Rocky Hills should have brought a suit for ownership or *accion reivindicatoria* before the RTC.

The RTC treated the appeal as an *accion reivindicatoria*, invoking the 2nd paragraph of Section 8, Rule 40 of the 1997 Rules of Civil Procedure, which states that, "if the case was tried on the merits by the lower court without jurisdiction over the subject matter, the RTC on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with the preceding section, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice."

As found by the RTC, before Lot 6157-C-3 was subdivided, Rocky Hills bought the property from the Sps. Madarang on May 4, 1990. Rocky Hills registered the property and a new title, TCT No. T-1-113152, cancelling TCT No. 48702, was issued in its name. The records also show that on November 10, 1989, the Sps. Madarang had sold portions of Lot No. 6157-C-3 to the Sps. Galanto. The sale of such portions by the Sps. Madarang to the Sps. Galanto was known to Rocky Hills, which recognized the Sps. Galanto as owners and bona fide members of the association. The Deed of Sale executed by the Sps. Madarang in favor of the Sps. Galanto was not registered. On October 25, 1991, the Sps. Galanto sold the subject landholdings to the Sps. Cuenco who, in the meantime, allowed the Sps. Galanto to continue occupying the premises. It was only in October of 2006, when the Sps. Cuenco started residing on the subject landholdings, that Rocky Hills began asserting its claim of ownership over said portions.

The RTC ruled that this case involves a double sale. The conflict falls under and can be resolved under Article 1544 of the Civil Code which sets the rules on double sale: "[i]f the same thing should have been sold to different vendees, the ownership shall transfer to the person who may have first taken possession thereof in good faith, if it should be movable property. Should it be immovable property, the ownership shall belong to the person acquiring it, who in good faith first recorded it in the Registry of Property. Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith."

The RTC found Rocky Hills as the second vendee, which registered the sale in its favor, whereas the Sps. Galanto, the first buyers did not. But mere registration is not enough. Good faith must concur with the registration. Knowledge gained by Rocky Hills regarding the first sale in favor of the Sps. Galanto defeats its rights even if it was first to register the second sale, since such knowledge taints its prior registration with bad faith.

The RTC added that when Rocky Hills registered the later sale in its favor, it was already aware of the prior sale in favor of the Sps. Galanto, as shown in the Joint Affidavit of the then President and Vice-President of the association and the Minutes of the Meeting of the Board of Directors of which Medardo Pedrano, the current

president of the association, was the secretary. The RTC lastly stated that there is no doubt that Rocky Hills' presumed good faith has been sufficiently overcome and its bad faith amply established.

On November 12, 2009, Rocky Hills filed a Motion for Reconsideration^[11] of the October 22, 2009 Decision of the RTC.

On February 22, 2010, the RTC issued an Order^[12] denying Rocky Hills' Motion for Reconsideration.

The instant Petition for Review

On March 25, 2010, Rocky Hills filed the instant Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure. In said petition, as well as in its Memorandum^[13] filed on March 16, 2012, Rocky Hills assigned the following errors:

- 1.) The RTC, Branch 7 erred in ruling upon the issue of ownership over the subject landholdings when jurisdiction over the same is lodged before the RTC, Branch 10 (Civil Case No. CEB-33841), a co-equal court.
- 2.) The RTC committed oversight when it held that the proper action that should have been filed by Rocky Hills is an accion reivindicatoria and not ejectment.
- 3.) The RTC erred in declaring the Sps. Cuenco as the owners of the subject landholdings when it is clear that they only stepped into the shoes of their predecessors-in-interest (Sps. Galanto) who failed to register the alleged sale.
- 4.) The RTC erred in granting attorney's fees and litigation expenses in favor of the Sps. Cuenco when the complaint is filed in good faith and only for the purpose of exercising the rights of ownership.

On the other hand, the Sps. Cuenco, in their Comment^[14] on the Petition for Review, contend that all the issues sought for review have already been threshed out and clearly explained in the Decision dated October 22, 2009 of the RTC, Branch 7 that decided Rocky Hills' appeal of the lower court's decision dismissing the latter's complaint for ejectment.

On September 30, 2010, RTC, Branch 10 (Civil Case No. CEB-33841) issued an Order^[15] stating that the respective counsel for each party agreed to suspend the hearings and to await the resolution of this instant petition for review.

The Ruling of the Court

The petition is partially impressed with merit.