

## FORMER THIRTEENTH DIVISION

[ CA-G.R. SP NO. 132431, June 11, 2014 ]

**FUNDADOR C. VENIEGAS, PETITIONER, VS. MARILYN C. FERNANDEZ, AND HON. JEAN MARIE A. BACORRO-VILLENA, PRESIDING JUDGE OF RTC 28, RESPONDENTS.**

### D E C I S I O N

**DIMAAMPAO, J.:**

This *Petition for Review*<sup>[1]</sup> inveighs against the *Decision*<sup>[2]</sup> dated 10 July 2013 and the *Resolution*<sup>[3]</sup> dated 1 October 2013 of the Regional Trial Court of Manila (RTC), Branch 28, which reversed on *Appeal the Decision*<sup>[4]</sup> dated 22 June 2012 of the Metropolitan Trial Court (MeTC) of Manila, Branch 7, dismissing private respondent's *Complaint for Unlawful Detainer*, and denied the *Motion for Reconsideration* thereof, respectively, in Civil Case No. 12-129122.

Stripped of unnecessary verbiage, the antecedents are quite simple.

At the crux of this legal strife is a parcel of land measuring 235.6 square meters, more or less, and situated in Sampaloc, Manila.<sup>[5]</sup> The property was originally covered by Transfer Certificate of Title (TCT) No. 44108<sup>[6]</sup> in the name of one Cayetano Fernandez, married to Maria. Upon Cayetano's death, private respondent Marilyn Fernandez, who claimed to be the sole heir of Cayetano, caused the issuance of TCT No. 002-2011000320 in her name.

Private respondent asserted that petitioner Fundador Veniegas occupied the subject lot only by sheer tolerance of Cayetano, her father. She insisted that Cayetano was not married to and merely cohabited with Maria, the mother of petitioner. Upon the death of Cayetano and Maria, she requested petitioner to leave the premises to no avail. On 29 April 2011, private respondent filed a *Complaint for Unlawful Detainer*<sup>[7]</sup> before the MeTC of Manila, raffled off to Branch VII.

The records unveil that private respondent sold the disputed realty to one Hilda Empizo (Empizo) a day before filing the suit. Empizo later sold it to a certain Allan Garcia (Garcia) who caused the issuance of TCT No. 002- 2011003320<sup>[8]</sup> in his name.

For his part, petitioner recounted that he was the son of Maria from a previous marriage. Maria later married Cayetano who loved and treated him like his own son. Cayetano and Maria did not have any child during their marriage. Neither did they legally adopt private respondent so that the latter could not claim to be the sole heir. Petitioner avowed that a copy of TCT No. 44108 was entrusted to him by Maria before her death.

Petitioner insisted that he and his family have been occupying the aforesaid land since the 1950s. He was surprised when he learned how private respondent

defrauded him by causing the issuance of a new title in her own name.

Calibrating the diverse postulations of the parties, the MeTC rendered a *Decision* dismissing the *Complaint* and declaring that it was Garcia, not private respondent, who had the legal personality to file the suit. The MeTC ratiocinated that private respondent was stripped of the right to pursue this suit as she sold the property a day before filing the *Complaint*.

Unfazed, private respondent appealed before the RTC which rendered the challenged *Decision*, disposing—

“**WHEREFORE**, with the foregoing, the assailed Decision of the court *a quo* is REVERSED and SET ASIDE. Accordingly, the (petitioner is) ORDERED to:

- (1) VACATE the subject property;
- (2) PAY the (private respondent) and/or her successor- in- interest P5,000 as reasonable compensation for the use of the property from the time of demand to vacate or from 15 February 2011 until the property is actually vacated(;)
- (3) PAY the (private respondent) P15,000 as attorney's fees.

**SO ORDERED.**”<sup>[9]</sup>

The *Motion for Reconsideration* thereof merited the same fate as it was denied in the impugned *Resolution*.

Ensuingly, petitioner now seeks recourse before Us raising the following assigned errors:

#### I

**THE REGIONAL TRIAL COURT AS THE APPEAL COURT ERRED WHEN IT DID NOT TAKE INTO CONSIDERATION THE FACTS OF THE CASE AND ARGUMENTS STATED IN THE PLEADINGS AND POSITION PAPERS IN THE LOWER COURT.**

#### II

**THE REGIONAL TRIAL COURT AS THE APPEAL COURT ERRED WHEN IT RULED THAT NO EVIDENCE OF THE ALLEGED FACTS WERE PRESENTED WHEN THESE EVIDENCES (SIC) WERE IN THE VERIFIED ANSWER, POSITION PAPER AND AFFIDAVITS OF FUNDADOR IN THE EJECTMENT CASE.**

#### III

**THE REGIONAL TRIAL COURT AS THE APPEAL COURT ERRED IN RULING THAT THE FILING OF THE UNLAWFUL DETAINER CASE IS PROPER HEREIN CONSIDERING THAT FUNDADOR HAS BEEN ADMITTEDLY OCCUPYING THE PREMISES SINCE 1954, AND PLAINTIFF MARILYN OBTAINED TITLE ONLY IN JANUARY 2011.**

#### IV