

SPECIAL ELEVENTH DIVISION

[CA-G.R. CV No. 99588, November 17, 2014]

SOLEDAD PLAN AS SUBSTITUTED BY HER HEIR, ESTER A. MACADANGDANG AND FURTHER SUBSTITUTED BY THE LATTER'S HEIRS, NAMELY: CONCEPCION A. MACADANGDANG-JAVIER, OSWALDO A. MACADANGDANG, ENRIQUE A. MACADANGDANG, ALFONSO A. MACADANGDANG, CARMELITA MACADANGDANG-PASSE AND MARIA HAZEL A. MACADANGDANG, APPELLANTS, VS. MAYVELIN CABULAGAN AND/OR SOFRONIA CABULAGAN OR SOFRONIA DE DIOS, APPELLEES,

PERFECTO LUMBO, AND MILDRED LUMBO, MOISES AGANUS, REYNALDO GAJELONIA AND ANITA GAJELONIA, INTERVENORS-APPELLEES.

D E C I S I O N

DICDICAN, J.:

Before this Court is an appeal^[1], under Rule 41 of the Revised Rules of Court, seeking the reversal of the Decision, dated August 17, 2012^[2], rendered by Branch 18, Regional Trial Court (RTC) of Batac City, dismissing Civil Case No. 1656 for insufficiency of evidence. The decretal portion of the said Decision reads:

"WHEREFORE, for insufficiency of the evidence presented by plaintiff as to the identity and her ownership of the property described in the amended complaint, the instant case is ordered dismissed.

SO ORDERED."^[3]

As culled from the records, the antecedent facts are as follows:

In 1984, Soledad Plan filed a Complaint^[4] against appellees Mayvelin Cabulagan and Sofronia Cabulagan in the Regional Trial Court of Batac, Ilocos, Norte. In the complaint, Soledad Plan claimed that, sometime in 1976, the appellees took possession of a land owned by her father named Ambrosio Plan, thus, she eventually demanded for appellees to vacate the said land and return the fruits thereof but they refused to do so. Soledad Plan thus prayed before the trial court for the recovery of the possession of the land and for payment of damages. She likewise prayed that she be declared the owner of the said land, described as follows:

"A parcel of land xxx xxx located at Nagtirigoan, Pinili, Ilocos Norte, with an xxx xxx area of 87,009 square meters, more or less, bounded on the North by Apolinario Cabulagan, on the East by Bernabe Aganus; on the South by Ignacio Echeverri; and on the West by Geronimo Rallang assessed at P7200. This parcel of land is designated at Lots Nos. 9715 and 9716 of the Pinili Cadastre and not covered by any certificate of title."

Appellees Mayvelin Cabulagan^[5] and Sofronia Cabulagan^[6] filed their separate Answers, alleging that they did not know Soledad and Ambrosio Plan or the land in suit. Mayvelin Cabulagan further stated that, since 1945, she had been the absolute and exclusive owner of parcels of land located in the same barangay as that where the land that appellants were referring to be owned by them. However, her land had different boundaries and areas as compared to appellants' land.

After the issues had been joined, the case was set for pre-trial. Pre-trial^[7] was terminated on July 25, 1985 and trial ensued with Soledad Plan and Anastacio Dumlao testifying in court. On November 28, 1988, the appellees filed their demurrer to evidence which was denied^[8] by the trial court on December 5, 1988. Thus, appellees presented their witnesses Simeona Oallares and Sofronia Cabulagan. Meanwhile, Soledad Plan died and was substituted by her heir, Ester Macadangdang.

Considering appellees' allegations of lack of knowledge of the land in suit, ocular inspections were made. The first inspection was conducted by court-appointed Commissioners Florentino Dumlao, Simeona Oallares and Deputy Sheriff Antonio Pacupac who submitted their Commissioner's Report^[9] on June 6, 1985. A second inspection was conducted by court-appointed Commissioners Ester Macadangdang, Simeona Oallares and Deputy Sheriff Mangapit who submitted their Commissioner's Report^[10], dated July 1, 1986. On September 26, 1990, the parties again agreed for the constitution of another set of commissioners^[11].

On January 23, 1991, the case was archived^[12] because the appellants intended to institute a registration proceeding involving the land in dispute. The case was subsequently retrieved from the archives and Ester Macadangdang filed her First Amended Complaint^[13], dated October 8, 1992, impleading additional persons who had allegedly entered the land in question, which was then described more definitely as follows:

"A tract of rural land located in Brgy. Nagtrigoan, Pinili, Ilocos Norte, with a total area of 169,073 sq. m., more or less, bounded on the North by Apolonio Cabulagan; on the East by Bernabe Aganus; on the South by Ignacio Echeverri; and on the West by Geronimo Rallang and is assessed at P7,200.00 under Tax Dec. No. 627109-A in the name of plaintiff. The greater Southwestern portion of this parcel of land was issued Decree No. 3086 in favor of Ambrosio Plan with Geronimo Rallang on December 26, 1908."

The additional defendants were named as: Cresencio Lumbo, Jasmin Lumbo, Tomas Lumbo, Apolonio Lumbo, Filipino Lumbo, Basilio Lumbo, Romulo Lumbo, Esmeraldo Acosta, Menando Malubay, Emmanuel Barroga, Leona Magno, Jose Lumbo, Jacinto Nalundasan, Feliza Garcia, Maria Nalundasan, Moises Aganus, Glicerio Tungpalan, Benjamin Nalundasan, Teodoro Daduyo, Menando Malubay, Estanislao Acosta, Rodolfo Dumlao, Elpio Dumlao, Fernandico Dumlao, Estelita Barroga, Esmenio Barroga, Vidal Lumbo, Cornelio Elmadao, Rufino Lumbo, Mercedes Magdirila and Titi Abriol.

Summonses were served on the aforementioned defendants who later filed their respective Answers. As some of them had already reportedly died, the trial court ordered the substitution of those deceased defendants by their respective heirs. Appellees likewise filed their Answer^[14] to the First Amended Complaint. Meanwhile, intervenors-appellees Perfecto Lumbo, Mildred Lumbo, Moises Aganus, Reynaldo Gajelonia and Anita Gajelonia filed their separate Motions for Intervention and Answers in Interventions.

On October 6, 1997, appellants submitted a survey plan^[15] and a list of occupants of the property that they are claiming. In an Order^[16] dated January 23, 1998, the case was dismissed by the trial court because of the substantial difference between the property claimed, which is 169,073 square meters, and the property shown in the survey plan, which is 218,041 square meters. Appellants filed a Motion for Reconsideration^[17] of the said Order which was denied by the trial court on February 24, 1998^[18]. On appeal, this Court rendered a Decision^[19], dated May 9, 2002, setting aside the order of dismissal and remanding the case for further proceedings. In said Decision, this Court observed that a closer look at the original and amended complaints revealed that Ester Macadangdang did not substantially alter her cause of action or change the theory of the case. To require Ester Macadangdang to re-file the case and present anew her evidence would further delay the resolution of the case on the merits, given the circumstance that the case had already dragged on for almost two decades.

Thus, the parties continued to present their evidence before the court *a quo*. In essence, appellants asserted that Ambrosio Plan gave Alejandro Cabulagan the subject land for tilling in 1910 and, in turn, Alejandro Cabulagan gave the produce of the land to Ambrosio Plan, who eventually died in 1930. Ambrosio Plan had three heirs, namely, Florentina Plan, Jose Plan and Soledad Plan. When Ambrosio Plan died, Florentina Plan took care of the property because Soledad Plan stayed in Quezon City and Jose lived in the United States of America. Jose Plan died without an issue and Florentina Plan ceded her interest in the subject property to Soledad Plan before dying in 1983. Appellants asseverated that Alejandro Cabulagan gave Florentina Plan the produce of the land from the year 1939 until 1977.

Meanwhile, appellees insisted that Sofronia Cabulagan (who was 76 years of age when she testified in court on May 29, 1989) started to accompany her father Alejandro Cabulagan in going to the subject property when she was seven years of age. Alejandro Cabulagan possessed the land and reaped the fruits thereof. Sometime in 1941, Alejandro Cabulagan gave the land to his son, Francisco Cabulagan, as donation *propter nuptias*. In 1949, the land was declared in the name of Francisco Cabulagan's daughter, Mayvelin Cabulagan, who continuously paid for

the taxes due thereon since then.

As documentary evidence, appellants submitted, among others, a certified true copy of Tax Declaration No. 15058 in the name of Ambrosio Plan, issued on May 13, 1906; an official receipt of payment of realty taxes; Certification issued by the Office of the Provincial Assessor of Ilocos Norte dated August 28, 1991 which stated that Alejandro Cabulagan does not appear to be the declared owner of any real property for taxation purposes; certified true copy of Decree No. 3086 stating that Ambrosio Plan and Geronimo Rallang are the owners of a 76,883 square meter land situated in Sitio Natrigoan, Municipality of Paoay, Ilocos Norte; Certification from the Office of the Assessor of Ilocos Norte dated March 7, 1991 stating that Tax Declaration No. 618299 is the latest assessment/revision of a parcel of land declared in the name of Ambrosio Plan; Certification issued on October 16, 1989 by the Records Management and Archives Office stating that no copy is on file with the said office of a Deed of Donation executed by Alejandro Cabulagan in favor of Francisco Cabulagan and Survey Plans prepared by geodetic engineer Ofelia C. Lacuesta. Appellees and some intervenors, on the other hand, submitted, among others, sketch plans, tax declarations, tax receipts and certificates of non-delinquency issued by the Treasurer of Pinili, Ilocos Norte.

Ester Macadangdang eventually died and was substituted by her heirs, namely: Concepcion Macadangdang Javier, Oswaldo Macadangdang, Enrique Macadangdang, Alfonzo Macadangdang, Carmelita Macadangdang Passe and Maria Hazel Macadangdang.^[20]

On August 17, 2012, the trial court rendered the assailed Decision and dismissed the case. The trial court noted that the appellees and the intervenors never asked to be declared as the owners of the properties that they are claiming. Upon their uniform allegation of lack of knowledge of the land in suit, they only asked that the case be dismissed. Agreeing with the appellees, the trial court dismissed the case for insufficiency of evidence as to the identity and ownership of the property that the appellants were claiming. The trial court ruled that there was a disconnect between the property mentioned in appellants' complaint and the documents of ownership presented. As there appeared to be no malice or ill-will on the part of appellants in filing the case however, no payment of damages may be claimed by appellees.

Feeling aggrieved by the dismissal of the case, appellants now come to this Court via this instant appeal and assign the following errors for our resolution, to wit:

I.

THE LOWER COURT GRAVELY ERRED IN RENDERING A DECISION DISMISSING THE COMPLAINT ON THE GROUND THAT APPELLANT ALLEGEDLY FAILED TO PROVE WITH PREPONDERANCE OF EVIDENCE THE IDENTITY OF THE SUBJECT PROPERTY.

II.

THE LOWER COURT GRAVELY ERRED IN FAILING TO RENDER JUDGMENT IN FAVOR OF THE APPELLANT AS THE LEGITIMATE POSSESSOR AND

OWNER OF THE SUBJECT PROPERTY, NOTWITHSTANDING THE OVERWHELMING EVIDENCE ADDUCED BY HER DURING THE TRIAL.

III.

THE LOWER COURT GRAVELY ERRED IN NOT AWARDING DAMAGES TO APPELLANT PURSUANT TO ARTICLE 2199 OF THE NEW CIVIL CODE.

The pivotal issue, therefore, is whether or not the court *a quo* erred in dismissing the complaint of appellants instead of rendering judgment in their favor as the legitimate owners and possessors of the subject property.

Appellants contend that the identity of the subject property and appellants' possession and ownership thereof have been duly established. Appellees, on the other hand, believe that appellants failed to prove the identity of the land they are claiming as the documents presented by them showed different areas and boundaries. Appellees also argue that Alejandro Cabulagan could not have been giving the owner's share of the harvest to appellants until 1977 because the death certificate of Alejandro Cabulagan shows that he died^[21] on November 20, 1961.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the appeal filed in this case to be bereft of merit.

Article 434 of the Civil Code, governing actions to recover ownership of property, states as follows:

"In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim."

Article 434 of the Civil Code provides that, to successfully maintain an action to recover the ownership of a real property, the person who claims a better right to it must prove two (2) things: first, the identity of the land claimed, and; second, his title thereto.^[22]

In regard to the first requisite, in an *accion reivindicatoria*, the person who claims that he has a better right to the property must first fix the identity of the land that he is claiming by describing the location, area and boundaries thereof.^[23]

The assailed decision of the trial court is anchored principally on the failure of the appellant to identify clearly and unmistakably the property in question and partly on the weakness of the evidence presented by appellants as regards their claim of ownership. A portion of the Decision states, thus:

"The identity of the land in suit had become more dubious from the plaintiffs variation of the description of the property. While the original complaint referred to the land in suit as Lot Nos. 9715 and 9716 of the