

## THIRD DIVISION

[ G.R. No. 243146, September 09, 2020 ]

**MR. AMOR VELASCO, SPOUSES GEORGE VELASCO, MRS. NOLFE VELASCO, [HEIRS OF FRANCISCO VELASCO], SPOUSES ROLANDO SABATIN, SPOUSES ALEXIS CASTRO, SPOUSES MELVIN MARON, SPOUSES REGARDO DUYNANIN, SPOUSES MARCELO IGNACIO, SPOUSES EDGARDO DUYNANIN, SPOUSES ALFREDO MARON, SPOUSES JOSE RAQUINO, SPOUSES ROGEL FELIX, SPOUSES DANNY SANTOS, SPOUSES RICARDO MANABAT, SPOUSES LEONARDO MARTIN, SPOUSES BENJAMIN SARMIENTO, SPOUSES ROLANDO IGNACIO, SPOUSES SUSTACIO IGNACIO, SPOUSES RODRIGO CARLOS, SPOUSES EUSEBIO COLLADO, SPOUSES EDGARDO RULLAN, SPOUSES NELSON ORPIANO, SPOUSES PONCIANO COLLADO, SPOUSES JOEL COLLADO, SPOUSES EDWIN ALEGORA, SPOUSES ELPIDIO PEREZ, SR., SPOUSES BIGHANI VELASCO, SPOUSES REGGIE VELASCO AND SPOUSES ISAGANI IGNACIO,\* PETITIONERS, VS. REBECCA MAGPALE, REPRESENTED BY PILIPINAS MAGPALE-UY, RESPONDENT.**

### D E C I S I O N

#### CARANDANG, J.:

Before us is a Petition for Review on *Certiorari*<sup>[1]</sup> seeking to reverse and set aside the Decision<sup>[2]</sup> dated August 31, 2018 and the Resolution<sup>[3]</sup> dated November 21, 2018 of the Court of Appeals (CA) in CA-G.R. No. SP No. 151683. The CA denied the petition for review filed by petitioners and affirmed the Decision<sup>[4]</sup> dated May 8, 2017 and the Order<sup>[5]</sup> dated June 29, 2017 of the Regional Trial Court (RTC) of San Jose City, Nueva Ecija, Branch 38 which ordered petitioners to remove their structures and to vacate the premises of a parcel of land covered by Transfer Certificate of Title (TCT) No. 15102 registered in the name of Rebecca Magpale (respondent).

Petitioners Amor Velasco, Nolfie Velasco and George Velasco are children of Francisco Velasco (Francisco), one of the registered owners of the original property covered by TCT No. NT-31597 (11472),<sup>[6]</sup> while the other petitioners, spouses Rolando Sabatin, spouses Melvin Maron, spouses Marcelo Ignacio, spouses Alfredo Maron, spouses Rogel Felix, spouses Ricardo Manabat, spouses Leonardo Martin, spouses Rolando Ignacio, spouses Rodrigo Carlos, spouses Edgardo Rullan, spouses Ponciano Collado, spouses Edwin Alegora, spouses Bighani Velasco, spouses Isagani Ignacio, spouses Alexis Castro, spouses Regardo Duyanin, spouse Edgardo Duyanin, spouses Jose Raquino, spouses Danny Santos, spouses Benjamin Sarmiento, spouses Sustacio Ignacio, spouses Eusebio Collado, spouses Nelson Orpiano, spouses Joel Collado, spouses Elpidio Perez, Sr. and spouses Reggie Velasco are tenants and occupants of the 6,595 square meter portion titled in the name of respondent and have built their

houses thereon. They claim ownership and right of possession of the subject property through their predecessor-in-interest, Francisco.<sup>[7]</sup>

### Facts of the Case

Respondent is the registered owner of a 6,595 square-meter parcel of land located at Barrio Galilea, San Jose City, Nueva Ecija, a portion of Lot 3360-A-2-C of the subdivision plan (LRC) Psd-138355, and covered by TCT No. 15102.<sup>[8]</sup> Said TCT No. 15102 also covered two parcels of land containing an area of 6,595 square meters registered in the names of Gavino Velasco and Demetria Velasco, respectively.<sup>[9]</sup>

Before the entire property was subdivided, it was previously covered by TCT No. NT-31597 (11472)<sup>[10]</sup> denominated as Lot 3360-A-2 of the subdivision plan (LRC) Psd-9098, being a portion of Lot 3360-A described on plan Psd-19224, LRC (GLRO) Cad. Record No. 270 situated in the Barrio of Galilea, Municipality of San Jose, Province of Nueva Ecija, with a total area of 59,355 square meters. The title was issued in the names of Leoncia Velasco (Leoncia) married to Benigno Magpale (Benigno); Gavino Velasco, married to Felicisima Ordone; Demetria Velasco; Narcisa Velasco and minors Almario Velasco and Arceli Velasco who are represented by their mother, Esperanza Velasco; Hermogenes Velasco; Francisco; Bridario Velasco; Eugenio Arenas; Felicidad Velasco; Esperanza Arenas; Bonifacio Arenas; and Julian Arenas, who are co-owners thereof, pro indiviso. The title was issued after spouses Leoncia and Benigno together with Leoncia's brothers and sisters, Gavino, Demetria, Narcisa, Almario and Arceli had purchased one-third share of the aforementioned property. Thereafter, Narcisa died single and without any debts and issues while Almario and Arceli, together with their mother, Esperanza Velasco, died in a vehicular accident.<sup>[11]</sup>

On April 9, 1992, an Extra Judicial Partition with Subdivision Agreement and Waiver of Rights<sup>[12]</sup> was executed by respondent, Clemencia Magpale, Benigno, Romeo Magpale, Filipinas Magpale, Gavino Velasco, Demetria Velasco, Hermogenes Velasco, Francisco, Bridario Velasco, Felicidad Velasco, Eugenio Arenas, Esperanza Arenas, Bonifacio Arenas, and Julian Arenas, wherein they agreed to subdivide the entire property covered by TCT No. NT-31597(11472), into three lots, to wit: (1) **Lot-3360- A-2-A** or one-third portion with an area of **19,785** square meters was assigned to Eugenio, Esperanza, Bonifacio and Julian, all surnamed Arenas; (2) **Lot-3360-A-2-B** with an area of **19,785** square meters was assigned to Hermogenes, Francisco, Bridario and Felicidad, all surnamed Velasco, and (3) **Lot-3360-A-2-C** with an area of **19,785** square meters was assigned to the children of Leoncia and Benigno, namely Clemencia, Benigno, Jr., Romeo, Filipinas and herein respondent, together with their co-owners, Gavino and Demetria. The third lot, Lot-3360-A-2-C was further subdivided into three equal portions containing an area of 6,595 square meters each. The northern portion of the lot was assigned to Gavino Velasco; the middle part was given to Demetria Velasco while the southeastern portion part was allotted to the heirs of Leoncia and Benigno who in turn executed a waiver of rights of their respective shares in favor of their sister, herein respondent. The Extra Judicial Partition executed by respondent, *et al.*, was annotated on TCT No. (NT-31597) 11472 as Entry No. 35019/11472 on April 23, 1992. As a result, TCT No. (NT-31597) 11472 was cancelled and TCT Nos. 15102, 15103 and 15260 were issued. The herein subject certificate of title, TCT No. 15102 was registered in the names of respondent, Demetria Velasco, and Gavino Velasco on September 23,

1992.<sup>[13]</sup>

We illustrate as follows:

**TCT (NT-31597) 11474 Total Area 59,355 square meters** (original property) Registered in the names of Leoncia, Gavino, Demetria, Almario (10yrs), Arceli (8yrs) represented by their mother Esperanza, Francisco, Bridario, Hermogenes, Eugenio, Felicidad (Velascos), Esperanza, Bonifacio and Julian (Arenas)

**EXTRAJUDICIAL PARTITION with Subdivision Agreement and Waiver of Rights** executed on April 9, 1992 (Annotated as Entry No. 35019111472 on TCT (NT-31597) 11474 on April 23, 1992)

<b>Lot-3360-A-2-A</b> 19785 sq. m.	<b>Lot-3360-A-2-B</b> 19785 sq. m.	<b>Lot-3360-A-2-C</b> 19785 sq. m. <b>(TCT No. 5102)</b>
Eugenio	Hermogenes	Gavino 6,595 (northern)
Esperanza	<b>Francisco</b> <b>(petitioners)</b>	Demetria 6,595 (middle)
Bonifacio	Bridario	<b>Rebecca 6,595</b> <b>(south) formerly</b> <b>Leoncia's share)-</b> <b>disputed portion</b>
Julian	Felicidad <sup>[14]</sup>	

On July 16, 2010, respondent filed a Complaint<sup>[15]</sup> for Recovery of Possession before the Municipal Trial Court in Cities (MTCC) of San Jose City, Nueva Ecija, against petitioners, spouses Rolando Sabatin, et al., docketed as Civil Case No. (10) 3885. In her complaint, respondent alleged, *inter alia*, that: (1) she is the owner of the 6,595-square meter southern portion of the land covered by TCT No. 15 02; (2) that the entire parcel of land was the subject of Civil Case No. 2681 for unlawful detainer entitled "*Rebecca Magpale v. Guillermo Duyanin, et al.*," which was decided in favor of respondent and possession of the parcel of land was restored to her in September 2007; (3) that not long after the said restoration of possession, petitioners invaded the same portion and constructed their houses thereon without her knowledge and consent; (4) that respondent sent formal demands for petitioners to remove their structures on her property and vacate it but they refused to do so; and (5) that the market value of the property was P18,200.00 with an assessed value of P7,280.00. Respondent prayed that petitioners or any person acting on their behalf be ordered to remove their structures and vacate the property and pay respondent rentals from the time of the filing of the complaint until possession of the property had been restored to respondent.<sup>[16]</sup>

In their Answer,<sup>[17]</sup> petitioners denied all the allegations of the respondent and alleged that as early as in the 80's, petitioners have been in actual possession of the area they occupied. They averred that petitioners Nolfe, George, Milagros, Amor and Merlita, all surnamed Velasco, are the co-owners of the subject property as they are the children of the late Francisco, a co-owner of the property covered by TCT No. (NT-31597) 11472. After Francisco's death in 1982, respondent caused the

execution of an Extra-Judicial Partition with Subdivision Agreement and Waiver of Rights in 1992,<sup>[18]</sup> making it appear that Francisco participated therein, to the prejudice of his children. Petitioners presented the Death Certificate<sup>[19]</sup> of Francisco showing that he died on March 9, 1982. Francisco, during his lifetime was allowed to construct his house by the other co-owners and thereafter his children, on the area assigned to him as his share in the coownership. The other petitioners are either tenants of the children of Francisco and the rest were allowed to construct their houses by the children of Francisco upon the assurance that they will buy the areas occupied by them.

As Compulsory Counterclaim,<sup>[20]</sup> petitioners Velasco, *et al.* assail the validity and issuance of TCT No. 15102 in the name of respondent. They alleged that:

x x x x

16. Defendants Nolfe, George, Milagros, Amor, and Merlita, all surnamed Velasco, hereby replead by reference the allegations of the foregoing Answer, Special, Affirmative and Alternative defenses, and in addition thereto, hereby alleges that:

17. They are directly attacking the validity and issuance of T.C.T. No. 15102 in the name of the plaintiff, as it was issued upon, and by virtue of, a falsified document the execution of which was engineered, conceived and made by plaintiff, by making Francisco Velasco to have participated thereon as alive, when in truth and in fact he died long ago on March 9, 1982, which is 10 years after Francisco Velasco died on March 9, 1982;

x x x x<sup>[21]</sup>

Petitioners prayed in their Answer that respondent be ordered to reconvey title to petitioners Nolfe, George, Milagros, Amor and Merlita Velasco, and that the complaint for recovery of possession filed respondent be dismissed. In the alternative, petitioners pray that respondent be ordered to sell the portion of the parcel of land occupied by the other petitioners.<sup>[22]</sup>

Respondent died on April 1, 2011.<sup>[23]</sup> She was substituted by her children, Arthur M. Niday, Benjamin M. Niday, and Cecille Niday-Guarino. The aforesaid children executed a Special Power of Attorney dated April 11, 2011 and appointed Pilipinas Magpale-Uy; their mother's sister, as their Attorney-in-fact.<sup>[24]</sup>

Initially, the MTCC of San Jose City, Branch 1 issued a Decision<sup>[25]</sup> dated May 18, 2015 dismissing the case for recovery of possession against petitioners for lack of jurisdiction.<sup>[26]</sup> It held that that the allegation of petitioners that respondent's title is void cannot be validly adjudged in the case for recovery of possession as it can only be raised in a direct action with the main objective of attacking the validity of respondent's title.<sup>[27]</sup>

On appeal, the RTC San Jose City, Nueva Ecija, Branch 39 issued a Decision<sup>[28]</sup>

dated May 31, 2016 setting aside the Decision of the MTCC and held that the MTCC has jurisdiction over the case. The RTC remanded the case to the court *a quo* for further disposition.<sup>[29]</sup>

In a Decision<sup>[30]</sup> dated November 7, 2016, the MTCC of San Jose City, Branch 1, ruled in favor of respondent and ordered petitioners to remove their structures and vacate the subject premises.<sup>[31]</sup> The trial court held that TCT No. 15102 registered in the name of respondent and two others, Demetria and Gavino, is conclusive evidence of respondent's ownership of the land and being one of the registered owners, respondent has the right to enjoy and to recover it from its possessor, herein petitioners.<sup>[32]</sup> The trial court further held that petitioners' allegation that respondent's title is void cannot be validly adjudged in this case for recovery of possession and can only be raised in a direct action with the main objective of attacking the validity of respondent's title. The MTCC ordered petitioners to pay rentals of P200.00 monthly from the filing of the complaint on July 16, 2010 until possession has been restored to respondent. The MTCC held that respondent had the better right to possess the property because she is the registered owner of the lot under TCT No. 15102, the validity of which cannot be collaterally attacked.<sup>[33]</sup> The dispositive portion of the decision states:

WHEREFORE, premises considered, judgment is rendered in favor of the plaintiff and against the defendants as follows:

1. Ordering the defendants and any other person acting in their behalves to remove their strubtures and vacate the premises of the 6,595, sq. m. lot covered by TCT No. 15102 which is registered in the name of the plaintiff;
2. Ordering the defendants to pay rentals of Php200.00 monthly from the filing of the complaint on 16 July 2010 until possession of the premises has been restored to the plaintiff.

SO ORDERED.<sup>[34]</sup>

Petitioners appealed the Decision of the MTCC to the RTC. In a Decision<sup>[35]</sup> dated May 8, 2017, the RTC of San Jose City, Branch 38 affirmed the Decision of the MTCC. The RTC agreed with the MTCC that respondent had a better right to possess the property because she is the registered owner.<sup>[36]</sup> The RTC held that the allegation of petitioners that the title of respondent is void for being issued based on a falsified extra-judicial partition is a collateral attack on TCT No. 15102 which it cannot pass upon and may be made in a direct proceeding for cancellation of title. The RTC then ruled that as the lawful owner, respondent has the right to eject the defendants.<sup>[37]</sup> Petitioners filed a motion for reconsideration of the said decision but the RTC denied the same in an Order<sup>[38]</sup> dated June 29, 2017.

Thereafter, petitioners elevated their case to the CA. They asserted that their compulsory counterclaim is considered a direct attack on respondent's title and that the MTCC and the RTC both erred in ordering them to remove their structures and vacate the subject property since respondent failed to establish her cause of action as there was no demand sent to petitioners.<sup>[39]</sup>