508 Phil. 21

FIRST DIVISION

[G.R. NO. 139536, September 26, 2005]

JESUS PEREZ, PETITIONER, VS. RUTH S. FALCATAN, NANETTE S. FALCATAN-TORIBIO, LIZETTE S. FALCATAN-EDRALIN, PEDRO FALCATAN, JR., AND ELZETTE S. FALCATAN, RESPONDENTS.

DECISION

CARPIO, J.

The Case

This is a petition for review[1] of the Court of Appeals' Decision[2] dated 28 July 1999 setting aside the Decision of the Regional Trial Court, Zamboanga City, Branch 17, and affirming the Decision of the Municipal Trial Court in Cities, Zamboanga City, Branch 2, in a suit for forcible entry and damages.

The Facts

Respondent Ruth S. Falcatan and her children, respondents Nanette S. Falcatan-Toribio, Lizette S. Falcatan-Edralin, Pedro Falcatan, Jr., and Elzette S. Falcatan ("respondents"), are the owners of a parcel of land in Upper Busugan, Patalon, Zamboanga City designated as Lot No. H-210949 ("Lot"). Measuring 22.4162 hectares, the Lot is covered by Transfer Certificate of Title No. T-70,377 ("TCT No. T-70,377"), which the Register of Deeds of Zamboanga City issued in respondents' name in 1983.

On 11 January 1991, respondents sued petitioner Jesus Perez ("petitioner") in the Municipal Trial Court in Cities, Zamboanga City, Branch 2 ("MTCC") for forcible entry and damages ("ejectment case").[3] Respondents alleged in their complaint that in January 1990, petitioner entered the Lot by strategy and stealth, took possession of a three-hectare portion (later increased to 12 hectares), cut down trees, and constructed "shed-houses." On 7 March 1990, respondents sent petitioner a written demand asking him to vacate the Lot. Petitioner ignored the letter, thus prompting respondents to file the ejectment case.

In his Answer, petitioner admitted taking possession of the Lot as respondents alleged in their Complaint. However, petitioner claimed that he did so as lessee under Industrial Tree Plantation Lease Agreement No. 002 ("Lease Agreement") which he and a representative[4] of the Department of Environment and Natural Resources ("DENR") signed on 19 January 1990.[5] Petitioner claimed that based on the survey the DENR conducted, the Lot formed part of the leased area. Petitioner also denied cutting trees inside the Lot as the portion he entered was allegedly devoid of trees.

Pursuant to the Revised Rule on Summary Procedure, the MTCC required the parties

to submit their position papers and supporting affidavits. Respondents complied and submitted their Position Paper (with supplement) and affidavits. Petitioner submitted neither.

The MTCC's Ruling

On 18 May 1995, the MTCC rendered judgment[6] in respondents' favor. The Decision's dispositive portion states:

> ACCORDINGLY, judgment is hereby rendered in favor of the plaintiffs and against the defendant, ordering the defendant:
>
> (a) To vacate the premises of plaintiffs' titled property, identified as Lot No. H-210949, and to demolish and remove all improvements that he had introduced thereon;
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> (b) To pay to the plaintiffs the sum of P6,000.00 representing the value of the 30 trees cut down from the plaintiffs' titled land;
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> (c) To pay to the plaintiffs the amount of P500.00 as rental, per hectare, per month, for the use and occupation of plaintiffs titled property, from March 14, 1990 until he vacates the premises;
>
> (d) To pay the plaintiffs the amount of P5,000.00 for and as attorney's fees, the amount of P1,500.00 as litigation expenses; [and]
>
> (e) To pay the cost of the action.
>
> The application for injunction is hereby granted.[7]

The MTCC held:

> Under the law, registered land owners are entitled to full enjoyment of their property without other limitations than those established by law (Art. 428, NCC) and to the exclusion of all others (Art. 429, NCC).
>
> xxx
>
> Defendant appears to contend that the area in question was/is still part of the Forest Zone, and, therefore, he has better right thereto by virtue of the lease agreement, hence, no forcible entry case will lie.
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> The fact, however, remains that the lot titled now in the names of the plaintiffs was originally acquired by one Marcelino Patoc through homestead patent duly approved by the President of the Republic of the Philippines on August 15, 1940. Plaintiffs and their predecessors-in-interest have been in possession and occupation of the land for about fifty (50) years[.] xxx Definitely, the so-called survey plan prepared only lately cannot prevail over the title issued to Mr. Marcelino Patoc fifty (50) years ago.
>
> xxx

> The evidence on record sustains the contention of plaintiffs that indeed defendant illegally entered, possessed and occupied a big portion of their titled property, measuring an area of about 11.5 hectares, cut down the trees thereon, converted them into lumber and used the same in the construction of bunk/shade houses; that about 30 trees had been cut down with a conservative value of P200.00 per tree, and that the reasonable rental for the occupation and use of the questioned area is P500.00 per hectare, per month; that because of the acts of the defendant, plaintiffs had to retain the services of counsel at a stipulated fee of P20,000.00, and to incur expenses of litigation, which appear uncontroverted since no position paper and counter affidavits of witnesses had been submitted to refute said claim, although the copies of xxx [plaintiff's] position paper and supplemental position paper and affidavits of witnesses had been served on defendant, through counsel.[8]

Petitioner appealed to the Regional Trial Court, Zamboanga City, Branch 17 ("RTC"). Aside from reiterating his claim that he entered the Lot under the Lease Agreement, petitioner also raised new claims, namely, that (1) prescription barred respondents' complaint which was also defective for failure to implead the DENR and (2) respondents failed to exhaust administrative remedies.

The RTC's Ruling

In its Decision[9] of 21 January 1997, the RTC granted petitioner's appeal, set aside the MTCC's Decision, lifted the injunctive writ, and dismissed respondents' complaint. The RTC held that respondents' complaint for forcible entry could not prosper because respondents failed to prove prior possession of the Lot. The RTC also found that petitioner's entry to and possession of the Lot under the Lease Agreement negated strategy or stealth. Lastly, the RTC held that respondents' complaint was time-barred.[10]

Respondents filed a petition for review with the Court of Appeals. In its Resolution of 3 March 1997, the appellate court denied respondents' petition because respondents' counsel and not respondents themselves signed the certificate of non-forum shopping. The appellate court also noted that respondents failed to submit an affidavit of service of their petition on petitioner and the RTC.

Respondents timely sought reconsideration and prayed for the admission of a petition with a certificate of non-forum shopping that respondents signed. Although respondents clarified that they already submitted with their initial petition an affidavit of service,[11] they nevertheless furnished the appellate court another copy of such affidavit.

In the Resolution of 18 April 1997, the Court of Appeals granted respondents' motion for reconsideration, admitted respondents' petition, as corrected, and required petitioner to Comment.[12] Petitioner complied. After an exchange of further pleadings, the appellate court gave due course to the petition.

The Court of Appeals' Ruling

In its Decision of 28 July 1999, the Court of Appeals reversed the RTC and affirmed the MTCC Decision. The appellate court held:

> Perusing the answer filed by Private Respondent in the court below xxx, there is no showing that he raised the following issues: (1) To dismiss the complaint for lack of proof of strategy or stealth to commit the alleged forcible entry; (2) The trial court erred in not dismissing the complaint on the ground of prescription since it was filed after the lapse of one (1) year; (3) That the trial court erred in not ordering the plaintiffs to implead the government (DENR) in the complaint as an indispensable or necessary party, it being a matter of record that the subject land is part of the Forest Reserve and therefore not subject of private ownership; and (4) The trial court erred in not dismissing the case for failure of Petitioners (Plaintiffs-Appellees) to exhaust administrative remedies. Neither were those issues raised by Private Respondent in a Position Paper below for as the Trial Court said in its Decision "Defendant submitted no Position Paper and affidavit of his witnesses, despite time given him" xxx.
>
> Under such clear circumstance therefore and pursuant to existing jurisprudence, Public Respondent Judge should not have entertained those issues above, which Private Respondent raised for the first time on appeal. The rule is that no issue may be raised on appeal unless it has been brought before the lower court for its consideration (Sesbreño vs. Central Board of Assessment Appeals, 270 SCRA 360). Public Respondent Judge should have only determined whether or not the court below erred in holding that Petitioner has proven prior physical possession over the property subject matter of litigation, and if indeed Petitioner has a better right of possession, whether he is entitled to damages or not. These were the only two (2) issues raised before the court below and pursuant to the jurisprudence cited, Public Respondent Judge should have only limited his review on appeal to those issues and no other. That it did entertain other issues raised for the first time on appeal before it is certainly reversible error.
>
> After a careful review and consideration of the records of the case and the evidence at hand, We do not find any error committed by the Municipal Trial Court. Presence of preponderance of evidence in favor of Petitioners was very well appreciated by the Municipal Trial Court in its decision[.][13] xxx

Hence, this petition. Petitioner contends that the Court of Appeals erred in:

> (a) [a]llowing respondents' "Corrected Petition For Review" notwithstanding the fact that at that time respondents' 15-day reglementary period to appeal from the RTC decision had already elapsed, thereby rendering the said decision final and executory; in fine, the CA error is jurisdictional; the CA had no legal authority to entertain respondents' "Corrected Petition For Review", much less rule in their favor by reversing the RTC decision; collaterally, the CA erred in allowing respondents' Verification and Certification against forum shopping to cure a void Certification to the same effect signed by their lawyer;
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> (b) [d]isregarding the decision of the RTC, which found lack of sufficient evidence adduced by respondents in the MTC to establish their

(respondents[']) prior physical possession of the land occupied by petitioner; in fine, there was lack of evidence to establish the most elementary element in forcible entry cases, i.e., prior possession de facto; and

(c) [i]gnoring the undisputed "Industrial Lease Plantation Agreement" executed on January 19, 1990 by petitioner with the Republic of the Philippines, as represented by the Department of Environment and Natural Resources (DENR), which is the basis of petitioner's lawful entry into respondents' land; in fine, petitioner's possession of respondents' land is legal and duly sanctioned by the Government, thereby removing the element of "strategy or stealth" as a mode of petitioner's occupation of the property in litigation.[14]

The Issues

The petition raises the following issues:

(1) Procedurally, whether the Court of Appeals erred in admitting and giving due course to respondents' petition;

(2) On the merits —

(a) whether respondents had prior possession of the Lot; and

(b) whether petitioner entered and took possession of the Lot illegally.

The Court's Ruling

The petition has no merit. We affirm the Court of Appeals' Decision with the modification that petitioner should pay fair rental value for his use of the 11.5 hectare portion of the Lot starting 7 March 1990.

The Court of Appeals did not Err in Admitting Respondents' Petition

Petitioner contends that in issuing its Resolution of 18 April 1997 admitting respondents' "corrected petition," the Court of Appeals exceeded its jurisdiction. Petitioner anchors his conclusion on the fact that respondents filed their petition on the last day of the reglementary period. Thus, when the Court of Appeals denied respondents' petition in its Resolution of 3 March 1997, such Resolution, and by implication, the RTC Decision, became final, precluding the appellate court from entertaining and granting respondents' subsequent motion for reconsideration of that Resolution.[15]

The contention has no merit. To begin with, petitioner is estopped from questioning before this Court the propriety of the Court of Appeals' admission of respondents' petition because he did not see fit to do so in the Court of Appeals. If petitioner thought that the Court of Appeals erred in admitting respondents' petition, the proper procedure was for him to seek reconsideration of the 18 April 1997 Resolution. However, instead of doing so, petitioner sought an extension of time within which to file his Comment to respondents' petition.[16] It is now too late for