

THIRD DIVISION

[G.R. No. 105294, February 26, 1997]

**PACITA DAVID-CHAN, PETITIONER, VS. COURT OF APPEALS AND
PHIL. RABBIT BUS LINES, INC., RESPONDENTS.**

DECISION

PANGANIBAN, J.:

In pleading for an easement of right of way, petitioner correctly cites the requirements of law but fails to provide factual support to show her entitlement thereto. Since findings of facts by the Court of Appeals affirming those of the trial court are binding on the Supreme Court, the petition must thus fail. Even petitioner's plea for equity becomes unavailing because resort to equity is possible only in the absence, and never in contravention, of statutory law.

The petition assails the Decision^[1] of respondent Court^[2] promulgated on April 30, 1992. The Decision of respondent Court affirmed the decision dated July 26, 1989, of the Regional Trial Court of San Fernando, Pampanga, Branch 44, in Civil Case No. 8049. The dispositive portion of the affirmed decision of the trial court reads:^[3]

"IN VIEW OF THE FOREGOING CONSIDERATIONS, and finding plaintiff's petition to be without merit, the same is, as it is hereby ordered dismissed with costs against plaintiff.

On defendant's (Singian) counterclaim, the same is, as it is hereby dismissed for insufficiency of evidence."

The Facts

On September 29, 1987, petitioner filed with the trial court an amended petition with prayer for preliminary prohibitory injunction, seeking to stop private respondent from fencing its property and depriving her of access to the highway. Petitioner alleged that her property, consisting of around 635 square meters, situated in Del Pilar, San Fernando, Pampanga and covered by TCT No. 57596-R, was delineated on its northern and western sides by various business establishments. Adjoining her property along its southern boundary was the land of the Pineda family, while along the east-northeastern boundary, and lying between her property and the MacArthur Highway, was another lot with an area of approximately 161 square meters owned by private respondent. In short, petitioner's lot was almost completely surrounded by other immovables and cut off from the highway. Her only access to the highway was a very small opening measuring two feet four inches wide through the aforementioned property of private respondent. Petitioner believed she was entitled to a wider compulsory easement of right of way through the said property of private respondent. The prospective

subservient estate was a portion of a bigger lot consisting of 7,239 square meters and covered by TCT No. 163033-R, which was formerly owned by the Singian Brothers Corporation (hereinafter referred to as "Singian Brothers") and was sold to private respondent without the knowledge and consent of petitioner, who was thereby allegedly prevented from exercising her right of pre-emption or right of redemption. Petitioner alleged that private respondent was about to complete the construction of its concrete fence on the said lot which would result in depriving petitioner of the only available right of way, and that therefore, she was constrained to petition the trial court to enjoin private respondent from fencing said lot. The petition likewise prayed that judgment be rendered ordering private respondent to sell to petitioner the subject lot and to pay the damages, attorney's fees and costs of suit.

Private respondent denied the allegations of petitioner. The parents and relatives of petitioner were never tenants or lessees of the former owner, Singian Brothers; rather, they were found to be illegally occupying the property as ruled by the MTC-San Fernando, Pampanga, Branch 1, in Civil Case No. 4865. The dispositive portion of the judgment of ejectment reads:^[4]

"WHEREFORE, defendants Eduardo Mangune, Pacita David-Chan and Primo David including their agents/representatives and, any and all persons given access by them to the disputed premises claiming any right under them, are hereby ordered to immediately vacate the area in question, remove all the improvements that they have constructed thereon; to pay the plaintiff corporation jointly and severally the sum of P2,000.00 pesos - as Attorney's fees and the costs of this suit.

The case against defendants Loida Makabali and Helen Hermidia is hereby dismissed as the action has become moot.

The defendants' counterclaim, Pacita David-Chan and Eduardo Mangune is hereby dismissed for lack of merit."

Hence the former owners were not obliged to inform petitioner of the sale. The land sold by the Singian Brothers was free from all liens and encumbrances as stated in the Deed of Absolute Sale. Private respondent was not selling the 161 square-meter lot because it needed the property. Also, petitioner had another access to the highway without passing through the lot in question.

The Singian Brothers were impleaded in the trial court. In their answer, they alleged that they did not authorize anyone to receive rentals for the disputed lot. As their affirmative and special defenses, Defendant Singian Brothers averred that the complaint of petitioner stated no cause of action because, being apparent and discontinuous, the right of way cannot be acquired by prescription. Petitioner was not a tenant of the Singian Brothers; therefore she was not entitled to a right of pre-emption or right of redemption. Finally, petitioner had another access to the National Highway which, however, she closed during the pendency of the case at the trial court when she extended the construction of her fence.

^[5]

The Issues

Failing to obtain relief at both the trial and respondent courts, petitioner now submits the following issues for consideration of this Court:

"I. In its reaffirmation of the lower court's decision, the Court of Appeals missed to temper with human compassion of the Art. 649 and 650 of the New Civil Code of the Phil. which requires the presence of four requisites for a compulsory easement of way."^[6]

"II. (The) Court (of Appeals) had used in its decision all technical and legal niceties to favor respondents, violating time-honored and deeply-rooted Filipino values."^[7]

"III. With due respect, the Court (of Appeals) erred in deciding this case in favor of the respondent despite the facts existing at the background."^[8]

"IV. The Court (of Appeals) erred in stating that petitioner had an outlet measuring two (2) feet and four (4) inches to the national highway without passing through respondent's property as per the commissioner's report."^[9]

In her Memorandum^[10] dated February 26, 1993, petitioner alleges only one issue:

"Whether or not petitioner is entitled to a legal easement of right of way over that portion of the property of respondent Rabbit?"

On the other hand, private respondent raises two issues:^[11]

"1. Is the petitioner entitled to an easement of right of way from the private respondents?

2. Should she be granted her desire for a right of way by way of 'pakikisama' and 'pakikipagkapwa-tao'?"

After deliberating on the various submissions of the parties, the Court holds that the issues can be condensed into two, as follows:

(1) Is petitioner legally entitled to a right of way through private respondent's property?

(2) In any event, is she entitled to such easement through the recognition and application of the Filipino values of pakikisama and pakikipagkapwa-tao?

The Court's Ruling

The petition is devoid of merit.

First Issue: Requisites of an Easement of Right of Way

Citing Articles 649 and 650 of the Civil Code,^[12] petitioner submits that "the owner

of an estate may claim a compulsory right of way only after he (or she) has established the existence of four requisites, namely: (1) the estate is surrounded by other immovables and is without adequate outlet to a public highway; (2) proper indemnity is paid; (3) the isolation is not due to the proprietor's own acts; and (4) the right of way claimed is at a point least prejudicial to the servient estate and, insofar as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest."^[13]

While petitioner may be correct in her theoretical reading of Articles 649 and 650, she nevertheless failed to show sufficient factual evidence to satisfy their requirements. Evaluating her evidence, respondent Court ruled that petitioner is not "without adequate outlet to a public highway" as follows:^[14]

"1. Let it be stressed that it was plaintiff who built a concrete fence on the southern boundary of her property to separate it from the property of the Pineda family. Worse, during the pendency of the case, she closed the 28-inch clearance which she could use as a means to reach the National Highway without passing through the property of defendant. If plaintiff wants a bigger opening, then she can always destroy a portion of the concrete fence which she erected and pass through the property of the Pineda family which, as shown on the attached sketch on the Commissioner's Report, has an open space on the southern boundary of plaintiff's land.

2. Plaintiff maintains that once the Pineda family (fences) off their lot, plaintiff has no more way to the National Highway.

Plaintiff's apprehensions are without basis. The Pineda family could no longer fence off their property because plaintiff (had) already constructed a fence to separate the two properties. And even granting that the Pineda family would eventually fence off their land, then plaintiff could ask for an easement of right of way from the Pineda family."

The appellate court likewise found that petitioner failed to satisfy the third requirement because she caused her own isolation by closing her access through the Pineda property, thus:^[15]

"1. Worthy of note is the fact that it was plaintiff who built a fence to separate her property from that of the Pineda family on the southern boundary. And she even closed the small opening causing her property to be isolated and losing one access to the National Highway. Plaintiff thus failed to meet the third requisite for the grant of an easement of right of way. As held by the Hon. Supreme Court in the case of Francisco vs. Intermediate Appellate Court, 177 SCRA 527, 534-535:

'The evidence is, therefore, persuasively to the effect that the private respondent had been granted an adequate access to the public highway (Parada Road) through the adjacent estate of Epifania Dila even as he was trying to negotiate a satisfactory agreement with petitioner Francisco for another passageway through the latter's property. If at the time he filed suit against the petitioner, such access (through the property of Epifania Dila) could no longer be used, it was because he himself had closed it off by erecting a stone wall on his lot at the point where the passageway