

## SECOND DIVISION

[ G.R. No. 240773, February 05, 2020 ]

**ANSELMO D. MALONZO, TERESITA MALONZO-LAO AND  
NATIVIDAD MALONZO- GASPAR, HEIRS OF THE DECEASED  
RONALDO T. PALOMO, NAMELY: TERESA VICTORIA R. PALOMO,<sup>\*</sup>  
CARLO MAGNO EUGENIO R. PALOMO, RAPHAEL PAOLO R.  
PALOMO AND LEO MARCO GREGORIO R. PALOMO, SPOUSES  
REYNALDO C. ABELARDO AND FLORINA T. PALOMO-ABELARDO,  
DANILO R. TANTOCO AND MANUEL R. TANTOCO REPRESENTED  
BY DANILO R. TANTOCO, AND TERESITA E. DEABANICO<sup>\*\*</sup>  
REPRESENTED BY ANSELMO D. MALONZO, JOSE E. CAYSIP,  
JHOANA C. LANDAYAN, DAVID R. CAYSIP AND EPHRAIM R.  
CAYSIP, PETITIONERS, VS. SUCERE FOODS CORPORATION,  
RESPONDENT.**

### DECISION

**INTING, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> dated October 30, 2017 and the Resolution<sup>[3]</sup> dated July 16, 2018 of the Special Fifth Division and Former Special Fifth Division, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 150371. The CA granted the petition for *certiorari* of Sucere Foods Corporation (respondent) and ordered Branch 7, Regional Trial Court (RTC), Malolos City, Bulacan, to take the deposition upon oral examination of Anselmo D. Malonzo (Anselmo), Atty. Ramon C. Sampana<sup>[4]</sup> (Atty. Sampana), and Undersecretary Jose Z. Grageda (Usec. Grageda) in connection with Civil Case No. 529-M-2014.

#### *The Antecedents*

The Complaint<sup>[5]</sup> docketed as Civil Case No. 529-M-2014 is an action for Quieting of Title, Recovery of Possession and Damages filed by Anselmo, Teresita Malonzo-Lao, Natividad Malonzo-Gaspar; the heirs of Ronaldo T. Palomo, namely: Teresa Victoria R. Palomo, Carlo Magno Eugenio R. Palomo, Raphael Paolo R. Palomo, and Leo Marco Gregorio R. Palomo; Spouses Reynaldo C. Abelardo and Florina T. Palomo-Abelardo; Danilo R. Tantoco and Manuel R. Tantoco; and Teresita E. Deabanico (Malonzo, *et al.*) against respondent and the Register of Deeds, Guiguinto, Bulacan. Malonzo, *et al.* were joined before the Court by Jose E. Caysip, Jhoana C. Landayan, David R. Caysip and Ephraim R. Caysip (collectively, petitioners).

Malonzo, *et al.* alleged in their Complaint that spouses Jose P. Cruz (Jose) and Felicidad Bejar were the owners of Lot No. 3069 with an area of 22,261 square meters (sq.m.) and covered by Transfer Certificate of Title (TCT) No. 17377; and Lot No. 3070 with an area of 6,320 sq.m. and covered by TCT No. 29244. In 1960, Lot

Nos. 3069 and 3070 were consolidated and subdivided into several lots under Plan (LRC) PCS-1260 (consolidated-subdivision plan),<sup>[6]</sup> which resulted in the cancellation of TCT Nos. 17377 and 29244, and the issuance of various TCTs covering the subdivided lots. The subdivided lots were purchased by different persons. Among the purchasers are the following parties to this case:

- (1) Ronaldo T. Palomo (Ronaldo) acquired Lots 3 and 10, Block 2 of the consolidated-subdivision plan, each with an area of 300 sq.m. Two certificates of title were issued in his name: TCT No. T-164528, reconstituted under TCT No. RT-53749 (T-164528)<sup>[7]</sup> and TCT No. T-164529, reconstituted under TCT No. RT-53750 (TCT No. T-164529).<sup>[8]</sup> Upon Ronaldo's death, he was survived by his widow, Teresa Victoria R. Palomo, and their children;
- (2) Anselmo and his wife, Socono V. Malonzo (Socorro) acquired Lot No. 5, Block 2 from Leo D. Cloma, Allen D. Cloma and Editha D. Cloma who, in turn, acquired it from spouses Jose de Mesa and Alejandra M. de Mesa. TCT No. T-32935<sup>[9]</sup> was issued in the names of Anselmo and Socorro. Upon Socorro's death, Anselmo and their children Teresita Lao and Natividad Gaspar inherited the one-half share left by Socorro. The lot is covered by TCT No. T-204179<sup>[10]</sup> in the names of Socorro's heirs.
- (3) Danilo R. Tantoco and Manuel R. Tantoco purchased their lots covered by TCT No. RT-53012 (T-118900)<sup>[11]</sup> and TCT No. RT-32837 (T-118899),<sup>[12]</sup> respectively;
- (4) The spouses Reynaldo Abelardo and Florina T. PalomoAbelardo acquired Lots 9 and 4 of Block 3, respectively covered by TCT Nos. RT-53746 (T-164520)<sup>[13]</sup> and RT-53749 (T-164531);<sup>[14]</sup>
- (5) Teresita E. Deabanico acquired Lot 1 covered by TCT No. RT-2031 (T-266485) from spouses Marquito Carlos Reyes and Minerva-Ramos Reyes, and Lot 2 covered by TCT No. T 266479<sup>[15]</sup> from the spouses Rene P. Ramos and Bessie Poblete-Ramos.

Malonzo, *et al.* claimed that prior to the consolidation and subdivision of Lot Nos. 3069 and 3070, the Provincial Government of Bulacan already purchased from Jose a portion of Lot No. 3069 with an area of 4,192 sq.m. and a portion of Lot No. 3070 with an area of 1,190 sq.m. The lots were identified in consolidated-subdivision plan. Malonzo, *et al.* stated that after the consolidation and subdivision of Lot Nos. 3069 and 3070 and the sale of the subdivided portions to different individuals, Florencio Cruz (Florencio) filed a petition for the issuance of a Certificate of Land Transfer of Lot No. 3069 in his favor. Subsequently, CLT No. 0-0733936 and EP No. A-32893 covering an area of 16,011 sq.m. were issued in the name of Florencio, while EP No. A-032892 covering an area of 6,250 sq.m. was issued in the name of Virginia Vda. de Dela Cruz (Virginia).<sup>[16]</sup>

Malonzo, *et al.* alleged that after the issuance of the emancipation patents and titles to Lot No. 3069, Florencio filed a petition for reconstitution and issuance of second owner's copy of TCT No. 17377. Florencio purportedly presented a Special Power of Attorney from Jose dated February 12, 1982, but notarized only on October 21, 1992 or almost a year after Jose died on December 4, 1991. Florencio also

submitted an Affidavit of Loss of the owner's duplicate copy of TCT No. 17377 allegedly executed by Jose on October 21, 1992. The petition for reconstitution was granted and a second owner's copy of TCT No. 17377 was issued without annotations at the memorandum of encumbrances. Thereafter, Florencio caused the registration of the emancipation patents. The reconstituted TCT No. 17377 was cancelled and TCT No. T-023-EP covering an area of 6,250 sq.m. was issued in the name of Virginia while TCT No. T-024-EP with an area of 16,066 sq.m. was issued in the name of Florencio, both under Plan Psd-03-000158 (OLT). According to Malonzo, *et al.*, the new titles in favor of Virginia and Florencio included the portion previously sold by Jose to the Provincial Government of Bulacan.<sup>[17]</sup>

On November 7, 1994, Florencio, together with respondent represented by its President Eduardo Yu, applied with the Department of Agrarian Reform (DAR) for the conversion of the lot covered by TCT No. T-024-EP from agricultural to commercial/industrial. On February 20, 1995, the DAR approved the application. Malonzo, *et al.* also alleged that Florencio already sold the lot covered by TCT No. T-024-EP to respondent on December 19, 1994, a year before the DAR approved the conversion. After the DAR approved the conversion, TCT No. T-024-EP was cancelled and TCT No. T-62591 was issued in the name of respondent.

Meanwhile, on November 10, 1994, Virginia allegedly sold the lot covered by TCT No. 023-EP to spouses Dominador and Teresita Balaga in whose names TCT No. T-64747 was issued. Upon Dominador's death, Teresita became the sole owner of the lot. She was issued the following TCTs: (1) TCT No. T-74758 with an area of 4,966 sq.m.; (2) TCT No. T-74759 with an area of 666 sq.m.; and (3) TCT No. T-74760 with an area of 618 sq.m. Teresita sold the area covered by TCT No. T-74758 to respondent, which resulted in the issuance of TCT No. T-74871 in the name of respondent.

Thereafter, respondent entered into a deed of exchange with Centro Escolar University involving a portion of the lot it acquired from Florencio covered by TCT No. T-62591<sup>[18]</sup> and a portion of the lot it acquired from Teresita covered by TCT No. T-74871.<sup>[19]</sup> The two lots were then consolidated under TCT No. T-87161 with an area of 20,977 sq.m., which included the portion owned by the Provincial Government of Bulacan. Respondent then subdivided the lot into three: (1) TCT No. T-90521<sup>[20]</sup> with an area of 18,060 sq.m.; (2) TCT No. 90522<sup>[21]</sup> with an area of 1,581 sq.m.; and (3) TCT No. 90523<sup>[22]</sup> with an area of 1,336 sq.m. All the three lots are in the name of respondent. The last two lots are the portions previously sold to the Provincial Government of Bulacan.

Respondent countered in its Comment that Florencio and Roman dela Cruz (Virginia's husband) were tenant-farmers of Jose in the parcel of land covered by TCT No. 17377 since 1945 and 1956, respectively. They executed a *Kasunduan sa Pamumuwisan* which recognized the long-standing tenancy relationship and confirmed that the land is covered by Operation Land Transfer Program under Presidential Decree No. 27.<sup>[23]</sup> However, Jose subdivided the land without the knowledge of the farmer beneficiaries and sold the subdivided portions to different individuals. Respondent alleged that it purchased the land in good faith and for value.

Petitioners mentioned other cases previously filed by both petitioners and respondents before the RTC and the Department of Agrarian Reform Adjudication Board or DARAB. The Court will not go into the merits of the cases and will limit its discussion to the matter relevant to the instant case.

To recapitulate, Malonzo, *et al.* filed a Complaint for Quieting of Title, Recovery of Possession, and Damages against respondent. On May 22, 2015, respondent filed with the RTC a notice to take deposition with a request for the issuance of *subpoena ad testificandum* for the deposition through oral examination of Anselmo, and Atty. Sampana or his representative, in his capacity as Registrar of Deeds, Guiguinto, Bulacan. On May 25, 2015, respondent filed an additional notice to take deposition with a request for the issuance of *subpoena ad testificandum* for the deposition through oral examination of DAR Usec. Grageda or his representative.

In an Order<sup>[24]</sup> dated May 28, 2015, the RTC in Civil Case No. 529-M-2014, denied respondent's notices for having been filed without leave of court pursuant to Section 1, Rule 23 of the Rules of Court (Rules).

Respondent filed a motion for reconsideration alleging that under Section 1, Rule 23 of the Rules, no leave of court is required when an answer has already been served. Pending the resolution of respondent's motion for reconsideration, Malonzo, *et al.* filed a Motion to Admit Amended Complaint to implead the Provincial Government of Bulacan as an indispensable party to the case.

In an Order<sup>[25]</sup> dated July 16, 2015, the RTC ruled that indeed, no leave of court is required, as alleged by respondent, because an answer has already been served. However, since the RTC admitted the motion to implead the Provincial Government of Bulacan, it deferred ruling on the motion for reconsideration to allow respondent to answer the Amended Complaint and decide later whether it will still file the notice to take deposition.

Respondent filed another Notice to Take Deposition dated November 26, 2015 for Anselmo, and Atty. Sampana or his representative. Malonzo, *et al.* opposed the notice on the grounds that it lacked the specific purpose or purposes for the deposition, it was a fishing expedition because the case will still undergo pre-trial proceedings, and respondent could still avail itself of other modes of discovery.

In an Order<sup>[26]</sup> dated January 11, 2017, the RTC denied respondent's notice to take deposition for lack of merit. The RTC ruled that while Section 1, Rule 23 of the Rules is a mode of discovery, Sections 3 and 17 of the same Rules are best complied with if the deposition is taken before the court and not before a notary public or any person authorized to administer an oath. The RTC ruled that the scope of, and reasons for, the depositions are not clear. The RTC stated that if the deponents are to be utilized as hostile witnesses, respondent can do this when it is their turn to present their evidence.

Respondent filed a petition for *certiorari* before the CA to set aside the Orders dated July 16, 2015 and January 11, 2017 of the RTC. The case was docketed as CA-G.R. SP No. 150371.

### *The Decision of the CA*

In its Decision dated October 30, 2017, the CA granted respondent's petition for *certiorari*, and ordered the RTC to allow the taking of the deposition upon oral examination of Anselmo, Atty. Sampana, and Usec. Grageda.

The CA ruled that depositions are allowed to promote the just, speedy, and inexpensive disposition of every action and proceeding provided they are taken in accordance with the provisions of the Rules, *i.e.*, with leave of court if summons have been served and without leave of court if an answer has been submitted, and provided further that a circumstance for their admissibility exists. In this case, an answer has already been served. As such, leave of Court is not required for the filing of the notice of deposition.

The CA further ruled that the RTC has the discretion whether to allow the deposition to be taken under specified circumstances which may even differ from the intention of the proponents. However the discretion must be exercised in a reasonable manner and in consonance with the spirit of the law and not arbitrarily, capriciously or oppressively. The deposition may not be allowed if it does not conform with the essential legal requirements of the law or if it will reasonably cause material injury to the adverse party. The CA found that respondent has complied with the requirements under the Rules. The CA held that there is no rule requiring the proponent to state the purpose for taking the deposition. In addition, the CA ruled that under Section 10, Rule 23 of the Rules, depositions may be taken before a notary public. Since respondent has complied with all the legal requirements, the CA ruled that the RTC has no reason to deny the deposition.

The CA further ruled that the Rules has safeguards to ensure the reliability of deposition. The parties retained their right to object to the deposition in the same manner that they can exclude evidence if the witness was present and had testified in court.

The dispositive portion of the CA's Decision reads:

WHEREFORE, the instant petition is GRANTED. The Regional Trial Court of Malolos City, Bulacan, Branch 7 is hereby ORDERED to allow petitioner to take the deposition upon oral examination of Anselmo D. Malonzo, Atty. Ramon C. Sa[m]pana and Usec. Jose Z. Grageda in connection with Civil Case No. 529-M-2014.

SO ORDERED. <sup>[27]</sup>

Malonzo, *et al.* filed a motion for reconsideration. In the Resolution dated July 16, 2018, the CA denied the motion.

Thus, the petition before the Court.

### *The Issues*

Petitioners raised the following issues before the Court: