

FIRST DIVISION

[G.R. Nos. 203076-77, July 10, 2019]

AZUCENA E. BAYANI, PETITIONER, VS. EDUARDO, LEONORA, VIRGILIO, VILMA, CYNTHIA AND NANCY, ALL SURNAMED YU AND MR. ALFREDO T. PALLANAN, RESPONDENTS.

[G.R. NOS. 206765 and 207214]

HEIRS OF CONCEPCION NON ANDRES, NAMELY: SERGIO, JR., SOFRONIO AND GRACELDA, ALL SURNAMED ANDRES, PETITIONERS, VS. HEIRS OF MELENCIO YU AND TALINANAP MATUALAGA, NAMELY: EDUARDO, LEONORA, VIRGILIO, VILMA, CYNTHIA, IMELDA AND NANCY, ALL SURNAMED YU; THE PROVINCIAL SHERIFF OF GENERAL SANTOS CITY; MR. ALFREDO T. PALLANAN, IN HIS CAPACITY AS DEPUTY SHERIFF OF THE REGIONAL TRIAL COURT (BRANCH 36), GENERAL SANTOS CITY; AND HON. ISAAC ALVERO V. MORAN, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT (BRANCH 36), GENERAL SANTOS CITY; YARD URBAN HOMEOWNERS ASSOCIATION, INC., HEREIN REPRESENTED BY ITS PRESIDENT, ROGELIO ENERO, RESPONDENTS.

D E C I S I O N

BERSAMIN, C.J.:

The guarantee of due process requires that the judgment of the court in an action *in personam* shall be enforced only against individuals who have been properly impleaded and whose persons have regularly come under the jurisdiction of the trial court. Any person not duly served with the summons or who has not voluntarily appeared in the action cannot be prejudiced by the judgment.

The Case

Before us are consolidated appeals by petition for review on *certiorari*, specifically: (1) **G.R. No. 206765** and **G.R. No. 207214**, filed by the Heirs of Concepcion Non Andres against the Heirs of Melencio Yu and Talinanap Matualaga, *et al.*; and (2) **G.R. Nos. 203076-77**, filed by Azucena Bayani. These appeals assail the decision promulgated by the Court of Appeals (CA) on May 20, 2011 (assailed decision), as well as the resolutions promulgated on July 19, 2012 and April 17, 2013 respectively in **CA-G.R. SP No. 02118-MIN** and **CA-G.R. No. SP No. 02084-MIN**.

Petitioners Sergio Andres, Jr., Sofronio Andres, and Gracelda Andres (collectively, Heirs of Non Andres) are the children of the late Concepcion Non Andres, the daughter of the late Alfonso Non. Respondents Eduardo, Leonora, Virgilio, Vilma,

Cynthia, and Nancy (collectively, Heirs of Yu) are the heirs of the late Spouses Melencio Yu and Talinanap Matualaga.

Antecedents

In 1953, a parcel of land, with an approximate aggregate area of 54.4980 hectares, located in Makar, General Santos City (Makar property), was subdivided into Lots Nos. 1, 2, 3, 4, and 5. Melencio filed applications for free patent as to Lots Nos. 2 and 4, and his applications were eventually approved.^[1]

Sometime after 1963, Melencio executed an *Agreement to Transfer Rights and Deed of Sale* and a *Quitclaim Deed* upon the intervention of Alfonso Non. It turned out, however, that said documents were for the sale of *all* the subdivided lots to one John Z. Sycip, instead of only the lots covered by the free patent issued to Melencio. As a result, the original certificate of title was delivered to Sycip instead of to Melencio and Talinanap.

After the subdivision, the disposition of the Makar property — particularly Lot No. 2 — became the subject of controversy in several civil cases, the rulings in which were ultimately brought to the Court, namely: (a) **G.R. No. 76487** entitled *Heirs of Sycip v. Court of Appeals*,^[2] whose decision was promulgated on November 9, 1990 (**1990 Case**); (b) **G.R. No. 182371** entitled *Heirs of Yu v. Court of Appeals*,^[3] whose decision was promulgated on September 4, 2013 (**2013 Case**); and (c) the present consolidated appeals.

A. 1990 Case (G.R. No. 76487)

After discovering that the original certificate of title had been delivered to Sycip, Melencio and Talinanap commenced in the Court of First Instance (CFI) of South Cotabato an action against Sycip for the declaration of nullity of documents and recovery of possession of real property (with a prayer for a writ of preliminary mandatory injunction). The action, docketed as **Civil Case No. 1291**, was assigned to Branch I of the CFI.

The ruling in **Civil Case No. 1291** eventually reached the Court (**G.R. No. 76487**), and the pivotal question raised was whether or not the sale of Lot No. 2 was null and void *ab initio*. Through the decision promulgated on November 9, 1990,^[4] the Court nullified the *Agreement to Transfer Rights and Deed of Sale* and the *Quitclaim Deed* on the ground that with Melencio and Talinanap being native Muslims belonging to the cultural minority or non-Christian Maguindanao tribe, the real property transactions to which they were parties were governed by the pertinent provisions of the *Revised Administrative Code of Mindanao and Sulu*, the *Public Land Act*, and Republic Act No. 3872, laws that respectively required the real property transactions to be approved by the relevant Provincial Governor, the Commissioner of Mindanao and Sulu, and the Chairman of the Commission on National Integration; and that, therefore, the documents were void and inexistent for being falsified, without consideration, and lacking of the requisite approvals.^[5]

The ruling in the **1990 Case (G.R. No. 76487)** became final and executory on December 10, 1990, and the entry of judgment was issued on February 2, 1991. As a result, the Regional Trial Court (RTC) in General Santos City directed the issuance of the writ of execution in its order dated February 26, 1991.^[6]

As it turned out, Sycip had long abandoned the Makar property since the 1980s. As of the time of the execution of the ruling in **Civil Case No. 1291**, however, other persons were already occupying Lot No. 2 and had built improvements thereon. Among them were: (1) the group of illegal settlers that had entered the disputed property in the interim, and who had organized themselves into the Yard Urban Homeowners Association, Inc. (**YUHAI**); (2) another group of illegal entrants who had organized themselves as the Sogod Homeseekers Association, against whom the Heirs of Yu brought an action for forcible entry docketed as Civil Case No. 1668-22;^[7] and (3) the Heirs of Non Andres, represented by Gracelda.

When the sheriff implemented the writ of execution issued in the **1990 Case**, the occupants refused to vacate Lot No. 2. Thus, the Heirs of Yu moved for the demolition of the occupants' improvements on Lot No. 2.^[8] In the order dated April 26, 1991, the RTC granted this motion and directed "the defendants who have remained in the premises xxx to remove their houses, otherwise, corresponding demolition will automatically follow."^[9]

To prevent the Heirs of Yu from taking over the property where its members had erected their houses, YUHAI filed a complaint for injunction and damages with prayer for writ of preliminary injunction or temporary restraining order (TRO), docketed as **Civil Case No. 4647**, in the RTC, which was assigned to Branch 23 (**YUHAI Injunction Case**).^[10] By this time, the same RTC branch was hearing both **Civil Case No. 1291** and **Civil Case No. 4647**, which had been consolidated.

The RTC dismissed the **YUHAI Injunction Case** on March 25, 1995, and the CA affirmed the dismissal on August 28, 1998 in CA-G.R. No. 54003.^[11]

Still unsuccessful in obtaining possession of Lot No. 2, the Heirs of Yu again sought the issuance of a special order of demolition. However, on March 10, 1998, the RTC, then presided by Acting Presiding Judge Monico G. Cabales, denied their motion to that effect,^[12] observing that the improvements being sought to be demolished had been built by persons not privy to **Civil Case No. 1291**; and holding that the judgment did not bind persons who were not parties in the action because every person was entitled to due process of law.^[13]

The RTC later denied the Heirs of Yu's motion for reconsideration.

Undaunted, the Heirs of Yu again moved for the issuance of a writ of demolition. The RTC, now under Presiding Judge Jose S. Majaducon, granted the motion, and issued the special order of demolition dated August 22, 2001 (**2001 Demolition Order**),^[14] which reads as follows:

SPECIAL ORDER OF DEMOLITION

TO: The Provincial Sheriff of General Santos City or any of his deputies

x x x x

WHEREAS, on March 19, 2001, an ORDER was issued by the Court, the dispositive part of which reads as follow (sic):

"WHEREFORE, the motion to implement the writ of demolition against the defendants and oppositors is hereby GRANTED."

WHEREAS, on June 20, 2001, an ORDER was issued by the Court, reading as follows:

"Acting on the Motion for Reconsideration on the Order dated [M]arch 19, 2001, granting motion for a special order of demolition and the opposition thereto, the Court having found no cogent reason to reconsider or set aside the Order, hereby DENIES the motion.

The Decision of the Court of Appeals is very clear on the issues raised in the motion. Since oppositors have not shown any right to the land, they should vacate the same. According to the Court of Appeals, it is not necessary for plaintiffs in Civil Case No. 1291 and defendants in Civil Case No. 4647 to file a separate case to eject oppositors.

WHEREFORE, the motion is denied."

NOW THEREFORE, we command you to demolish the improvements erected by the defendants HEIRS OF JOHN Z. SYCIP xxx, in Civil Case No. 1291, and plaintiffs YARD URBAN HOMEOWNERS ASSOCIATION INC., ET AL. in Civil Case No. 4647, on that portion of land belonging to plaintiffs in Civil Case 1291 and defendants Civil Case no. 4647, MELENCIO YU and TALINANAP MATUALAGA, covered by Original Certificate of Title [No.] (V-14496) (P-2331) P-523 in Apopong, General Santos City.
(Bold underscoring supplied for emphasis)

By virtue of the **2001 Demolition Order**, the provincial sheriff issued notices to vacate addressed to the Heirs of Sycip, YUHAI, and "*all adverse claimants and actual occupants of the disputed lot,*"^[15] including the Heirs of Non Andres.

Prompted by the issuance of the **2001 Demolition Order**, the Heirs of Non Andres and YUHAI separately filed in the RTC complaints for quieting of title docketed as **Civil Case No. 7066 (Heirs of Non Andres Quieting Case)** and **Special Civil**

Case No. 562 (YUHAI Quieting Case), respectively.

In the meantime, the RTC directed the sheriff to proceed with the implementation of the **2001 Demolition Order**. Thereafter, YUHAI filed a petition for *certiorari* in the CA to annul the **2001 Demolition Order** (docketed as CA-G.R. SP No. 69176). Initially, on March 5, 2002, the CA issued a TRO to enjoin the implementation, thereby effectively deferring the demolition for several years.^[16] Ultimately, the CA dismissed YUHAI's petition for *certiorari* and denied YUHAI's motion for reconsideration of the dismissal. Thus, YUHAI appealed the dismissal to this Court, which denied the petition for review on *certiorari* on September 16, 2009.^[17]

Inasmuch as the implementation of the **2001 Demolition Order** remained pending and incomplete, the Heirs of Yu filed their *Motion to Resume and Complete Demolition*. In its October 9, 2007 order (**2007 Resumption Order**),^[18] the RTC (Branch 36) granted the motion and directed the provincial sheriff to proceed with and complete the demolition allowed in **Civil Case No. 1291** and **Civil Case No. 4647**,^[19] viz:

SPECIAL ORDER TO RESUME AND COMPLETE DEMOLITION

TO: The Provincial Sheriff of General Santos City or any of his deputies

x x x x

NOW THEREFORE, we command you to resume and complete the demolition in [Civil Case Nos. 1291 and 4647] **as directed in the Special Order of Demolition, dated August 22, 2001**, issued by then Judge Jose S. Majaducon. (Emphasis Supplied)

Subsequently, on November 12, 2007 and December 4, 2007, the sheriff sent notices to *all occupants* to vacate Lot No. 2.^[20]

Two parties assailed the **2007 Resumption Order**, namely: the Heirs of Non Andres and Azucena N. Bayani.

Arguing that they were not even parties in **Civil Case No. 1291** and **Civil Case No. 4647**, the Heirs of Non Andres assailed their inclusion in the implementation through their letter addressed to the provincial sheriff whereby they insisted on their exclusion from the implementation, and by filing therein a *Special Appearance with Ex-Parte Manifestation and Motion*. The provincial sheriff did not act on their letter, while the RTC expressly disallowed their motion through the order dated December 7, 2007.^[21] On December 11, 2007,^[22] therefore, they brought a petition for *certiorari*, prohibition, and injunction with prayer for the issuance of a TRO and/or writ of preliminary injunction (**CA-G.R. SP No. 02084-MIN**) to set aside the **2007 Resumption Order** and to permanently enjoin the demolition as far as they were concerned.

On her part, Bayani also went to the CA by commencing an action for indirect