

SECOND DIVISION

[G.R. No. 218343, November 28, 2018]

JUN MIRANDA, PETITIONER, V. SPS. ENGR. ERNESTO AND AIDA MALLARI AND SPS. DOMICIANO C. REYES AND CARMELITA PANGAN, RESPONDENTS.

DECISION

CAGUIOA, J:

Before the Court is a petition for review on *certiorari*^[1] (Petition) under Rule 45 of the Rules of Court (Rules) assailing the Decision^[2] dated September 26, 2014 and the Resolution^[3] dated May 19, 2015 of the Court of Appeals^[4] in CA-G.R. CV No. 97437. The CA Decision denied the appeal filed by petitioner Jun Miranda (Miranda) and affirmed the Decision^[5] dated June 3, 2010 of the Regional Trial Court of Gapan City, Nueva Ecija, Branch 87 (RTC) in Civil Case No. 2773, ordering Miranda to surrender possession of the 7.3 hectares lot (subject property) located at Barangay Papaya, San Antonio, Nueva Ecija and embraced in Transfer Certificate of Title No. (TCT) NT-226485 of the Register of Deeds for the Province of Nueva Ecija, and dismissing the third-party complaint by Miranda against Spouses Domiciano Reyes and Carmelita Pangan (Spouses Reyes). The CA Resolution denied Miranda's motion for reconsideration.

The Facts and Antecedent Proceedings

The antecedents as narrated in the CA Decision follow:

On January 24, 2000, a *Decision* was rendered by the RTC of Balanga City granting the complaint for damages docketed therein as Civil Case No. 6701, entitled Spouses Ernesto and Aida Mallari (Spouses Mallari) versus Japhil Construction Corp. and its owners, the Spouses Domiciano and Carmelita Reyes (Spouses Reyes). The decretal portion of the disposition reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants ordering the latter to jointly and severally pray (sic);

- 1. Plaintiffs Spouses Engr. Ernesto S. Mallari and Aida P. Mallari the sum of P1,200,000.00 Philippine Currency, plus interest at the rate of 6% per annum counted from the date of the filing of this case until the said amount is paid in full;*
- 2. P50,000.00 for moral damages;*
- 3. P25,000.00 for exemplary damages;*
- 4. P25,000.00 for Attorney's fees;*

5. *The cost of the suit.*

SO ORDERED.

The Spouses Reyes appealed the foregoing disposition, but the same was dismissed by [the CA], through the former Special Second Division, on January 30, 2002. The RTC's disposition [was] declared final and executory on February 20, 2002 and was annotated in Transfer Certificate of Title (TCT) No. NT-266485 as Entry No. 2195 on February 10, 2003.

On March 10, 2003, a Writ of Execution was then issued by the RTC of Balanga. Pursuant thereto, a Notice of Levy, dated April 2, 2003, was issued covering the parcel of land, located at San Antonio, Nueva Ecija, registered under TCT No. NT-266485 (subject property) in the names of therein judgment debtors, Spouses Reyes. The date of the inscription of the notice in TCT No. NT-266485 was indicated as *April 3, 2002*, when the same should have been April 3, 2003.

On September 12, 2003 and after due notice, a public auction was held whereby the subject property was sold to the Spouses Mallari, as highest bidder[s], who came out with a bid of One Million Six Hundred Forty-Five Thousand Pesos (PhP 1,645,000.00). On September 16, 2003, a Certificate of Sale was then issued to the said spouses who, in turn, caused the same to be annotated in TCT No. NT-266485 as Entry No. 11122 on September 17, 2003.

The Present Controversy:

On March 3, 2004, the Spouses Mallari filed the suit [for recovery of possession] below against Jun Miranda (Miranda). Thereunder, they alleged that, sometime after causing the Certificate of Sale in their favor to be annotated in TCT No. NT-266485, they conducted an inspection of the subject property. At which time, they discovered that the same was in the possession of Miranda who claimed to be the owner thereof, having bought the property from the Spouses Reyes sometime in 1996. Claiming to be entitled to the ownership and possession of the property, they prayed that Miranda be ordered to vacate and to surrender the possession thereof to them.

In his Answer, Miranda denied all the material allegations in the Spouses Mallari's complaint. He averred that he is already, and continues to be, the owner of the subject property as he bought the same from the Spouses Reyes way back March 20, 1996^[6] despite that he failed to cause the registration of the sale as he lost the owner's copy of TCT No. NT-266485. Asserting that the Spouses Reyes no longer have rights or interests over the subject property at the time of the levy, he maintained that the Spouses Mallari acquired no right over the same. Further, he insisted that the Spouses Mallari have no cause of action since the said spouses are mere claimants in an execution sale and no formal demand to vacate was made upon him. Claiming to be an innocent purchaser for value who cannot be deprived of possession over the subject property, he prayed that the complaint be dismissed, that he be declared the rightful owner of the subject property, and for an award of damages.

On July 12, 2004 and with leave of court, Miranda filed a Third-Party Complaint against the Spouses Reyes. In essence, he alleged that he would have immediately transferred the ownership of the subject property in his name had he known of the suit between the Spouses Reyes and the Spouses Mallari; and, that because of such lack of knowledge, he is now in extreme danger of losing his property. Maintaining that the Spouses Reyes, as sellers, impliedly warranted his protection against eviction, he, thus, prayed that the said spouses be held liable for any and all damages that he may incur should he be deprived of the subject property.

In his Answer, Domiciano Reyes admitted that he and his now deceased wife, Carmelita, sold the subject property to Miranda in 1996. He, however, claimed that he and his wife are no longer liable to Miranda should the latter be ordered to surrender the possession and ownership of the property to the Spouses Mallari. According to him, Miranda was grossly negligent in that he did not cause the registration of the property in his name or to annotate his interest over the property despite that, after the sale in 1996, he and his wife, as sellers, surrendered to Miranda all the documents pertinent to the subject property that would have enabled the latter to cause such registration. Further, he claimed that he could not be blamed as regards the levy since, prior thereto, he already informed the Spouses Mallari that the same was no longer his. Insisting that Miranda could not shift the blame on him and his wife, he prayed that the third-party complaint be dismissed for (*sic*) damages.

[Miranda executed an affidavit of adverse claim over the subject property and had it registered only on December 9, 2003.^[7]]

The issues having been joined and for lack of an amicable settlement between the parties, a full-blown trial ensued.

On June 3, 2010, the RTC rendered the assailed *Decision* granting the Spouses Mallari's complaint and dismissing Miranda's third-party complaint. It pronounced that Miranda is estopped from claiming ownership over the subject property in view of his failure to annotate his interest thereto in TCT No. NT-266485; and, that the levy, execution, and sale of the subject property to the Spouses Mallari is valid because Miranda's claim of ownership, even if true, cannot prevail over the rights of the said spouses.

In dismissing the third-party complaint, the RTC ratiocinated that the warranty against eviction does not apply because, first, the Spouses Reyes, as vendors, had no participation in the execution sale and, second, it was Miranda who failed to safeguard his right over the property. The *fallo* of the disposition thus reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs-spouses Ernesto and Aida Mallari and against defendant Jun Miranda in the following manner:

a) Ordering defendant Jun Miranda to peacefully surrender the material and actual possession of the 7.3 hectares lot located

at Brgy. Papaya, San Antonio, Nueva Ecija, and embraced in TCT No. NT 226485 of the Register of Deeds for the Province of Nueva Ecija; and,

b) Dismissing the third-party complaint by defendant Jun Miranda against Sps. Domiciano Reyes and Carmelita Pangan for lack of merit.

SO ORDERED.

Dissatisfied, Miranda sought x x x recourse [to the CA].^[8]

The CA Ruling

The CA in its Decision^[9] dated September 26, 2014 denied Miranda's appeal and affirmed the RTC Decision.

The CA ruled that the right of Spouses Ernesto and Aida Mallari (Spouses Mallari) having been annotated on TCT NT-266485 through the Notice of Levy prevails over that of Miranda "in line with the jurisprudential rule that preference is given to a duly registered levy on attachment or execution over a prior unregistered sale."^[10] The CA found Miranda's invocation that he is an innocent purchaser for value erroneous, and Spouses Mallari are the ones who can claim the right of being innocent purchasers for value.^[11] On Miranda's third-party complaint against Spouses Reyes, the CA ruled that Miranda cannot anymore seek refuge under the Civil Code provisions on breach of warranty against eviction because almost eight years have lapsed from the execution of the deed of sale in 1996 up to the filing of the instant complaint on March 3, 2004.^[12]

The dispositive portion of the CA Decision states:

WHEREFORE, the appeal is **DENIED**. The assailed disposition is **AFFIRMED** *in toto*. No costs.

SO ORDERED.^[13]

Miranda moved for reconsideration of the CA Decision, but the motion was denied in the CA Resolution^[14] dated May 19, 2015.

Hence, Miranda filed the instant Petition. Spouses Mallari filed their Comment^[15] dated September 3, 2015. Miranda filed a Reply^[16] dated December 24, 2015.

Issues

The Petition raises the following issues:

Whether the CA erred when it upheld the supposed rights of Spouses Mallari as attaching creditors of the subject property despite their knowledge of the prior unregistered sale to Miranda;

Whether the CA erred when it did not award damages to Miranda;

Whether the CA erred when it dismissed the third-party complaint of Miranda against Spouses Reyes; and

Whether the CA erred in not reconsidering its Decision despite more than compelling reasons for its reversal.^[17]

The Court's Ruling

The Petition is impressed with merit.

Before the Court delves into the substantive issues, the Court deems it proper to discuss a preliminary procedural matter.

The present Petition originated from a "verified complaint for Recovery of Possession with Damages."^[18] The narration of facts both in the RTC Decision and the CA Decision reveals that recovery of possession was sought by Spouses Mallari from Miranda through an *accion publiciana* because there are no averments of facts that would support an action for either forcible entry or unlawful detainer. Besides, the complaint was filed before a Regional Trial Court, a third-party complaint was even allowed, and the proceedings were not summary as a full-blown trial was conducted.

Spouses Mallari's case against Miranda being an *accion publiciana*, a review of its nature and attributes is in order.

Accion publiciana is a plenary action to recover the better right of possession (possession *de jure*), which should be brought in the proper inferior court or Regional Trial Court (depending upon the value of the property)^[19] when the dispossession has lasted for more than one year (or for less than a year in cases other than those mentioned in Rule 70 of the Rules).^[20]

The issue in an *accion publiciana* is the "better right of possession" of real property independently of title. This "better right of possession" may or may not proceed from a Torrens title. Thus, a lessee, by virtue of a registered lease contract or an unregistered lease contract with a term longer than one year may file, as against the owner or usurper, an *accion publiciana* if he has been dispossessed for more than one year. In the same manner, a registered owner or one with a Torrens title can likewise file an *accion publiciana* to recover possession if the one-year prescriptive period for forcible entry and unlawful detainer has already lapsed.

Unlike forcible entry and unlawful detainer where there is an express grant for the provisional determination of the issue of ownership for the sole purpose of determining the issue of possession pursuant to Sections 16^[21] and 18^[22] of Rule 70, there is no express grant in the Rules that the court hearing an *accion publiciana* can provisionally resolve the issue of ownership. Despite the lack of an express Rule, however, there is ample jurisprudential support for upholding the power of a court hearing an *accion publiciana* to also rule provisionally on the issue of ownership.

In *Supapo v. Sps. de Jesus*,^[23] (*Supapo*) the Court stated:

In the present case, the Spouses Supapo filed an action for the recovery of possession of the subject lot but they based their better right of possession on a claim of ownership [based on TCT C-28441 registered and titled under the Spouses Supapo's names^[24]].

This Court has held that the objective of the plaintiffs in *accion publiciana* is to recover possession only, not ownership. However, where the parties