807 Phil. 491

SECOND DIVISION

[G.R. No. 207146, March 15, 2017]

SPOUSES LARRY AND ROSARITA WILLIAMS, PETITIONERS, VS. RAINERO A. ZERDA, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* assailing the November 28, 2012 Decision[1] and the April 16, 2013 Resolution[2] of the Court of Appeals (*CA*) in CA-G.R. CV No. 01115-MIN, which reversed and set aside the September 11, 2006 Decision[3] and the February 8, 2007 Order[4] of the Regional Trial Court, Branch 30, Surigao City, (*RTC*) in Civil Case No. 6285, a case for easement of right of way.

The Facts

Respondent Rainero A. Zerda (*Zerda*) was the owner of a parcel of land, known as Lot No. 1177-B (*dominant estate*) of the Surigao Cadastre, situated in Barangay Lipata, Surigao City, with an area of 16,160 square meters (sq. m.), and covered by Transfer Certificate of Title (*TCT*) No. T-18074. Immediately behind the dominant estate was Lot No. 7298, a swampy mangrove area owned by the Republic of the Philippines. On both sides were Lot No. 1177-C, registered under the name of Woodridge Properties, Inc. and Lot No. 1206, in the name of Luis G. Dilag. In front was Lot No. 1201-A owned by petitioner-spouses Larry and Rosarita Williams (*Spouses Williams*), where the national highway ran along.[5]

On July 28, 2004, Zerda filed a complaint against Spouses Williams for easement of right of way. The complaint alleged that Zerda's lot was without adequate outlet to a public highway, that it could not be accessed except by passing through Spouses Williams' property; that the isolation of Zerda's property was not due to his own acts, as it was the natural consequence of its location; that the right of way he was claiming was at a point least prejudicial to Spouses Williams' property; and that on January 27, 2004, Zerda wrote to Spouses Williams formally asking them to provide him with right of way, for which he was willing to pay its reasonable value or to swap a portion of his property, but Spouses Williams refused.[6]

Spouses Williams countered that the complaint should be dismissed for lack of cause of action because Zerda failed to establish the requisites for the existence of right of way. They claimed that sometime in May 2003, they were in negotiation with Agripino Sierra (*Sierra*), the former owner of the dominant estate, for its sale to them but the sale did not materialize due to the intervention of Zerda. Spouses Williams further averred that they undertook visible development projects on their property as early as May 2003 amounting to P6,619,678.00; that the isolation of the dominant estate was Zerda's fault; and that his requested right of way would cause

great damage and prejudice to them.[7]

The RTC Ruling

In its September 11, 2006 Decision, the RTC ruled in favor of Spouses Williams. It found that the isolation of Zerda's lot was due to his own acts because when he bought the said property, he was aware that Spouses Williams had already started introducing improvements on their own property. It stated that Spouses Williams were able to prove that while they were in negotiation with Sierra for the purchase of the dominant estate, Zerda intervened and bought the land himself, knowing full well that the land was surrounded by other immovables.[8]

The RTC also noted that the right of way requested by Zerda was not the shortest distance from the dominant estate to the public highway. It observed that the shortest distance began "from the northeastern corner of Lot 1177-B, the dominant estate, following the northern boundary of Lot 1201-A, the servient estate, and running across the southeastern portion of Lot 1177-C straight up to the public highway."[9]

Finally, the RTC granted the claim of Spouses Williams for moral damages and exemplary damages. The *fallo* reads:

> WHEREFORE, premises considered, let the herein complaint be DISMISSED without pronouncement as to costs. However, on the compulsory counterclaim, plaintiff is hereby ordered to pay defendants moral damages in the sum of P30,000.00 and exemplary damages of P20,000.00.
>
> SO ORDERED.[10]

Zerda filed a motion for reconsideration. In its February 8, 2007 Order,[11] the RTC partially granted the motion by deleting the award of moral damages.

Aggrieved, Zerda appealed before the CA.

The CA Ruling

In its assailed November 28, 2012 Decision, the CA *reversed* and *set aside* the ruling of the RTC. It explained that the isolation of Zerda's property was not due to his own acts, and to deny the right of way to a purchaser of an enclosed estate simply because of his prior knowledge that the same was surrounded by immovables would render the law on easements nugatory. "In effect, the purchaser would only be filling into the shoe[s] of the previous owner of the isolated property in the exercise of his right to demand an easement of right of way. The new owner did not do anything that would have caused the deliberate isolation of the property."[12]

Further, the CA declared that Zerda was not in bad faith when he intervened in the negotiation for the sale of the dominant estate between Sierra, the previous owner and Spouses Williams. It noted that Sierra himself denied knowing Larry Williams, thereby negating the spouses' claim of a negotiation. The CA added that even if

there was a prior negotiation, Sierra could not be deprived of his right to sell his property to a buyer of his own choosing.[13]

The CA also found that the right of way, proposed by Zerda, was the shortest distance to the national highway and the least prejudicial to the servient estate. It laid emphasis on Spouses Williams' admission that they had no intention to build houses in the area sought and that the 705.20 sq. m. long pathway would only affect a small portion of their lot which had a total area of 12,200 sq. m. The dispositive portion of the CA ruling reads:

> WHEREFORE, the appeal is GRANTED. The September n, 2006 Decision and February 8, 2007 Order of the Regional Trial Court, Branch 30, Surigao City is REVERSED and SET ASIDE.
>
> We hereby order (a) appellees to allow the right of passage by the appellant thru their Lot 1201-A; and (b) appellant to pay private respondent the indemnity therefor to be determined by the trial court. The case is hereby REMANDED to the trial court for the determination of the proper amount of indemnity for the easement of right of way under Article 649.
>
> SO ORDERED.[14]

Spouses Williams moved for reconsideration, but their motion was denied by the CA in its assailed resolution, dated April 16, 2013.

Hence, this petition.

ISSUE

> **WHETHER RESPONDENT ZERDA IS ENTITLED TO AN EASEMENT OF RIGHT OF WAY.**

Spouses Williams argue that the respondent caused the isolation of his property because he bought the lot with notice that it had no access to the national highway and was surrounded by other immovables; that the respondent was in bad faith because he was aware that they were negotiating with Sierra over the purchase of the dominant estate when he intervened and bought the property himself; that the shortest distance from the dominant estate to the public highway began from the northeastern corner of Lot No. 1177-B (the dominant estate) following the northern boundary of Lot No. 1201-A, then passing through the southeastern portion of Lot No. 1171-C; and that the right of way requested by the respondent was not the least prejudicial in view of the developments introduced by them thereon.

Zerda was ordered by the Court to file his comment on the petition of Spouses Williams. Despite several opportunities granted to him, he failed to file his comment. Thus, his right to file a comment on the petition for review was deemed waived.

The Court's Ruling

The conferment of the legal easement of right of way is governed by Articles 649 and 650 of the Civil Code: