

SECOND DIVISION

[G.R. No. 191432, September 02, 2015]

TERESA D. TUAZON, PETITIONER, VS. SPOUSES ANGEL AND MARCOSA ISAGON, RESPONDENTS.

DECISION

BRION, J.:

We resolve the petition for review on *certiorari* filed by petitioner Teresa Tuazon (*Teresa*) to challenge the October 28, 2009 Decision and February 11, 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 107937, penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Andres B. Reyes, Jr. and Vicente S.E. Veloso, concurring.

The Facts

During their lifetime, spouses Melencio Diaz and Dolores Gulay (*Dolores*) owned Lot 103 of the Santa Rosa Estate, Barangay Aplaya, Sta. Rosa, Laguna, consisting of 499 square meters (*Lot 103*). They had three daughters named Maria, Paciencia, and Esperanza. Melencio and Maria predeceased Dolores. On May 28, 1955, Dolores, Paciencia, and Esperanza adjudicated Lot 103 to Dolores through a Deed of Extrajudicial Settlement. Maria's children who were still minors at that time were not included in the settlement.

On March 17, 1956, Dolores sold Lot 103 to Isabel Torres through a *Bilihang Tuluyan* (Deed of Absolute Sale). Subsequently, Isabel Torres sold Lot 103 to Teresa on September 29, 1973.

On October 12, 1973, Maria's children, namely Gloria, **Angel**, Felix, and Flaviano, all surnamed Isagon, executed a Deed of Conformity. In this instrument, they honored the Deed of Extrajudicial Settlement executed by their grandmother and aunts, subject to the condition that they would get one-sixth of Lot 103 as their share.

Gloria, Felix, and Flaviano also sold their shares to Teresa. On the other hand, **Angel mortgaged his share to Teresa** on October 20, 1975, through a *Kasulatan ng Sanglaan*. His share consisted of 20.75 square meters which was one-fourth of the one-sixth share in the property. Angel Isagon thereafter refused and failed to redeem the mortgaged property.

Teresa has been paying the real estate taxes due on Lot 103 since 1974 up to the present. Lot 103 is covered by an undated and reconstituted **Transfer Certificate of Title (TCT) No. (N.A.) RT-1925** issued in Teresa's name.

Sometime in 1972, the petitioner's brother, Antonio Tuazon (*Antonio*), allowed Spouses Angel and Marcosa Isagon (*respondents*) to build a small hut on a portion

of Lot 103 without Teresa's knowledge. The respondents and their children were then living by the seashore and Antonio feared that their house could be swept away by the floods during a typhoon.

In 2000, the respondents started to construct a house on the disputed property despite Teresa's protest. For years, however, Teresa tolerated their possession and use of the contested area.

In 2007, Teresa filed a complaint against the respondents before the *Lupon Tagapamayapa* of *Barangay Aplaya*. The parties failed to reach any amicable settlement.

On January 24, 2007, Teresa sent a final demand letter to respondents to vacate and to pay rental fees. The respondents did not reply.

On September 11, 2007, Teresa filed a complaint for unlawful detainer against the respondents before the Municipal Trial Court in Cities (MTCC), City of Sta. Rosa, Laguna. She prayed that the respondents be ordered to vacate the subject property and to pay compensation for its use and occupancy.

In their answer, the respondents alleged that they were occupying the subject property as owners. They also alleged that Teresa fraudulently obtained TCT No. (N.A.) RT-1925.

The MTCC and RTC Rulings

The MTCC, in its judgment on January 25, 2008, decided in favor of Teresa and ordered the respondents to vacate the subject property and to pay reasonable rent and attorney's fees. The MTCC held that Teresa was the owner of the property as shown by TCT No. (N.A.) RT-1925, and as owner, she was entitled to enjoy the right of possession over the subject property. It added that a property registered under the Torrens system could not be collaterally attacked in an action for unlawful retainer.

On appeal, the Regional Trial Court (RTC) in Bifian, Laguna, affirmed in toto the decision of the MTCC. The RTC denied the respondents' motion for reconsideration.

The CA Ruling

The respondents appealed the RTC's ruling to the CA.

In its October 28, 2009 Decision, the CA reversed the RTC's ruling. The CA noted that Angel Isagon executed a real estate mortgage in favor of Teresa over a portion of Lot 103 but had failed to redeem it. Citing Article 2088 of the Civil Code, the CA concluded that Teresa was a mere mortgagee and had no right to eject the respondents. Instead of foreclosing the property, Teresa filed this action for unlawful detainer. The CA added that a mortgage was not an instrument that transferred ownership; thus, the disputed property still belonged to the respondents.

The Petition