

THIRD DIVISION

[G.R. No. 205664, June 09, 2014]

**DEPARTMENT OF EDUCATION, REPRESENTED BY ITS REGIONAL
DIRECTOR TERESITA DOMALANTA, VS. MARIANO TULIAO,
PETITIONER, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court filed by the Department of Education (*DepEd*) assails the January 31, 2013 Decision^[1] of the Court of Appeals (*CA*) in GR. SP No. 123450 which dismissed *DepEd*'s petition for review.

The Factual Antecedents:

On October 8, 2002, Mariano Tuliao (*Tuliao*) filed an action for recovery of possession and removal of structure with damages against the Department of Education (*DepEd*) with the Municipal Trial Court in Cities of Tuguegarao City (*MTCC*). He alleged that he was the registered owner of the subject parcel of land and that a portion of the said property was allowed by his predecessors-in-interest to be used by the Atulayan Elementary School (*AES*) as an access road for the schoolchildren in going to and from the school. In March 2000, upon discovering that a structure was being constructed on the land, he demanded that the *DepEd* cease and desist and vacate the property. The respondent, however, refused. Tuliao likewise demanded payment for reasonable rent, but his demand was also ignored.

In its defense, the *DepEd* denied the material allegations of the complaint and averred that it did not state a cause of action. Even if there was, the same was already barred by prescription and/or laches. Its occupation of the subject land was adverse, peaceful, continuous, and in the concept of an owner for more than fifty (50) years. It also alleged that it did not receive a notice to cease and desist or notice to vacate. As owner of the school site, it could not be compelled to pay rent or its reasonable value.

On January 26, 2010, the *MTCC* rendered its decision, ruling that Tuliao was the registered owner of the subject property and, thus, had a right of action against the holder and possessor of the said property. Further, it found that respondent's possession of the subject property was merely tolerated by Tuliao. For said reason, his right to recover it was never barred by laches.

As to the structures, the *MTCC* stated that it could not allow the immediate removal thereof in view of the provisions of Article 448^[2] of the New Civil Code and directed Tuliao to exercise his options under said article. Pertinent portions of the *MTCC*

decision, including the *fallo* reads:

Plaintiff's prayer that the structures built on his lot be removed immediately cannot be allowed in view of the provision of Article 448.

WHEREFORE, premises considered, judgment is hereby rendered by:

1. Declaring the plaintiff to be the lawful possessor of the lot in suit;
2. Directing the plaintiff to exercise his option under the law (Article 448, Civil Code) whether to appropriate the structures built on the lot in suit as his own by paying to the defendant the amount of the expenses spent for the structures or to oblige the defendant to pay the price of the land, and said option must be exercised and relayed to this court formally within 30 days from receipt of this decision and a copy of such notice must be furnished to the defendant.
 - a. If in case the plaintiff exercises the option to appropriate the structures built on the lot in suit, the defendant is hereby directed to submit to this court the amount of the expenses spent for the structures within 15 days from receipt of the notice of the plaintiff of his desired option.
 - b. If the plaintiff decides to oblige the defendant to pay the price of the land, the current market value of the land including its improvements as determined by the City Assessor's Office shall be the basis for the price thereof.
 - c. In case the plaintiff exercises the option to oblige the defendant to pay the price of the land but the latter rejects such purchase because the value of the land is considerably more than that of the structures, the parties shall agree upon the terms of a forced lease, and give the court a formal written notice of such agreement and its provisos.
 - d. If no formal agreement shall be entered into within a reasonable period, the court shall fix the terms of the forced lease.
3. Directing the defendant to pay the plaintiff the amount of five hundred pesos (P500.00) as reasonable compensation for the occupancy of the encroached property from the time the complaint was filed until such time the possession of the property is delivered to the plaintiff subject to the reimbursement of the aforesaid expenses in favor of the defendant or until such time the payment of the purchase price of the lot be made by the defendant in favor of the plaintiff in case the latter opts for the compulsory sale of the same;
4. Directing the defendant to pay the plaintiff the amount of P20,000.00 as attorney's fees and to pay the costs of the suit.

So Ordered.^[3]

On appeal to the RTC, aside from the issue of inaction, the DepEd argued that Tuliao failed to sufficiently and competently prove the identity of the property – the exact location, area and boundaries. The DepEd further claimed that the material allegations of the complaint established one of *accion reivindicatoria*, and not *accion publiciana*, because Tuliao raised the issue of ownership and made it the anchor of his claim for juridical possession.

Acting thereon, the RTC dismissed the appeal and affirmed the MTCC decision. It stated that “[i]f a party in *accion publiciana* alleges that he owns the property in question, it is not *ex sequitur* that the action is a reivindicatory one,” and that a claimant could assert ownership as basis of his claim of possession.^[4] The RTC also wrote that Tuliao was able to present evidence establishing a definite and unmistakable identification of the land and its ownership over the subject property. Moreover, the DepEd’s possession was with the acquiescence of Tuliao’s predecessors-in-interest, thus, the defense of laches was found weak.^[5]

Interestingly, despite having affirmed the MTCC decision, the RTC opined that the case was impressed with public interest^[6] and it was the paramount interest of the pupils who would be prejudiced by the finality and execution of the appealed decision.^[7] The RTC strongly suggested that the DepEd, or if unable, the City Government of Tuguegarao City, be requested to pay Tuliao the just compensation of the land in question the amount of which to be determined by a panel of three commissioners appointed by the court and whose determination was to be approved by the said court.^[8]

Aggrieved, the DepEd elevated the case to the CA via a petition for review under Rule 42. Finding no merit, the CA affirmed the RTC decision. It stated that the DepEd’s reliance on the case of *Bote vs. San Pedro Cineplex Properties Corporation*^[9] in arguing that Tuliao’s certificate of title alone was inadequate to hand over possession of an unidentified parcel of land was misplaced. In *Bote*, both parties asserted ownership and possession of the land and presented their respective titles as evidence thereof. Hence, it was ruled therein that geodetic survey was necessary to determine whose title actually covered the disputed property.^[10]

In this case, however, only Tuliao presented a certificate of title as well as tax declaration and real property tax receipts for the years 2003-2005.^[11] The pieces of evidence Tuliao presented resolved the issue of who had the better right of possession and dispensed with the need for the testimony of an expert witness.^[12]

Hence, the present petition.

ISSUES: I.

WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING THE