

FIRST DIVISION

[G.R. No. 175025, February 15, 2012]

**ROGELIO J. JAKOSALEM AND GODOFREDO B. DULFO
PETITIONERS, VS. ROBERTO S. BARANGAN, RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

This case exemplifies the age-old rule that the one who holds a Torrens title over a lot is the one entitled to its possession.^[1]

This Petition for Review on *Certiorari*^[2] under Rule 45 of the Rules of Court assails the Decision^[3] dated August 3, 2006 and the Resolution^[4] dated October 4, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 79283.

Factual Antecedents

On August 13, 1966, respondent Col. Roberto S. Barangan (respondent Barangan) entered into a Land Purchase Agreement^[5] with Ireneo S. Labsilica of Citadel Realty Corporation whereby respondent Barangan agreed to purchase on installment a 300 square meter parcel of land, covered by Transfer Certificate of Title (TCT) No. 165456,^[6] located in Antipolo, Rizal.^[7] Upon full payment of the purchase price, a Deed of Absolute Sale^[8] was executed on August 31, 1976 in his favor.^[9] Consequently, the old title, TCT No. 171453,^[10] which was a transfer from TCT No. 165456,^[11] was cancelled and a new one, TCT No. N-10772,^[12] was issued in his name.^[13] Since then, he has been dutifully paying real property taxes for the said property.^[14] He was not, however, able to physically occupy the subject property because as a member of the Philippine Air Force, he was often assigned to various stations in the Philippines.^[15]

On December 23, 1993, when he was about to retire from the government service, respondent Barangan went to visit his property, where he was planning to build a retirement home. It was only then that he discovered that it was being occupied by petitioner Godofredo Dulfo (petitioner Dulfo) and his family.^[16]

On February 4, 1994, respondent Barangan sent a letter^[17] to petitioner Dulfo demanding that he and his family vacate the subject property within 30 days. In reply, petitioner Atty. Rogelio J. Jakosalem (petitioner Jakosalem), the son-in-law of petitioner Dulfo, sent a letter^[18] claiming ownership over the subject property.

On February 19, 1994, respondent Barangan filed with Barangay San Luis, Antipolo, Rizal, a complaint for Violation of Presidential Decree No. 772 or the Anti-Squatting

Law against petitioners.^[19] No settlement was reached; hence, the complaint was filed before the Prosecutor's Office of Rizal.^[20] The case, however, was dismissed because the issue of ownership must first be resolved in a civil action.^[21]

On May 28, 1994, respondent Barangan commissioned Geodetic Engineer Lope C. Jonco (Engr. Jonco) of J. Surveying Services to conduct a relocation survey of the subject property based on the technical description appearing on respondent Barangan's TCT.^[22] The relocation survey revealed that the property occupied by petitioner Dulfo and his family is the same property covered by respondent Barangan's title.^[23]

On November 17, 1994, respondent Barangan filed a Complaint^[24] for Recovery of Possession, docketed as Civil Case No. 94-3423, against petitioners Dulfo and Jakosalem with the Regional Trial Court (RTC), Branch 73, Antipolo City. Respondent Barangan prayed that petitioners Dulfo and Jakosalem be ordered to vacate the subject property and pay a monthly rental of P3,000.00 for the use and occupancy of the subject property from May 1979 until the time the subject property is vacated, plus moral and exemplary damages and cost of suit.^[25]

In their Answer with Counterclaim,^[26] petitioners Dulfo and Jakosalem claimed that the subject property was assigned to petitioner Jakosalem by Mr. Nicanor Samson (Samson);^[27] that they have been in possession of the subject property since May 8, 1979;^[28] and that the property covered by respondent Barangan's title is not the property occupied by petitioner Dulfo and his family.^[29]

During the trial, respondent Barangan testified for himself and presented three witnesses: (1) Gregorio Estardo (Estardo), the caretaker of Villa Editha Subdivision and Rodville Subdivision^[30] employed by Citadel Realty Corporation, who stated under oath that petitioner Dulfo used to rent the lot owned by Dionisia Ordiales (Estardo's Aunt) and that when petitioner Dulfo could no longer pay the rent, he and his family squatted on the property of respondent Barangan;^[31] (2) Candida Lawis, a representative of the Municipal Assessor of Antipolo, Rizal, who confirmed that respondent Barangan is included in the list of registered owners of lots in Villa Editha Subdivision III and Rodville Subdivision^[32] and; (3) Engr. Jonco, who testified that the property occupied by petitioner Dulfo and his family and the property owned by respondent Barangan are one and the same.^[33]

The defense moved for the dismissal of the case on demurrer to evidence but was denied by the RTC.^[34] Thus, the defense presented petitioner Jakosalem who maintained that he acquired the subject property by assignment from its previous owner, Samson.^[35] The defense likewise requested an ocular inspection of the subject property to show that it is not the property covered by respondent Barangan's title.^[36] However, instead of granting the request, the RTC issued an Order^[37] dated September 15, 2000 directing Engr. Romulo Unciano of the Department of Environment and Natural Resources (DENR) Antipolo City to conduct a resurvey or replotting of land based on the title of respondent Barangan and to submit a report within 15 days.^[38] The resurvey, however, did not push through because the defense in an Omnibus Motion^[39] dated September 20, 2000

abandoned its request for an ocular inspection claiming that it was no longer necessary.^[40]

Ruling of the Regional Trial Court

On March 19, 2003, the RTC rendered a Decision^[41] against respondent Barangan for failure to present sufficient evidence to prove his claim.^[42] The RTC further said that even if the subject property is owned by respondent Barangan, prescription and laches have already set in; thus, respondent Barangan may no longer recover the same.^[43] The dispositive portion reads:

WHEREFORE, premises considered, for insufficiency of evidence judgment is hereby rendered in favor of the defendant and against the plaintiff. By way of counterclaim, the plaintiff is hereby ordered to pay defendant Jakosalem the following amounts:

- a. P100,000 for moral damages;
- b. P50,000 as actual damages;
- c. P25,000 as exemplary damages;
- d. P20,000 for litigation expenses; and
- e. Costs of suit.

SO ORDERED.^[44]

Ruling of the Court of Appeals

On appeal, the CA reversed the findings of the RTC. It found respondent Barangan entitled to recover possession of the subject property because he was able to sufficiently prove the identity of the subject property and that the same is owned by him, as evidenced by TCT No. N-10772.^[45] And since respondent Barangan was deprived of possession of the subject property, the CA ruled that he is entitled to reasonable compensation for the use of the property with interest, as well as the payment of moral, temperate or moderate damages, and attorney's fees,^[46] to wit:

WHEREFORE, premises considered, the appeal is **GRANTED**. The Decision dated 19 March 2003 of the Regional Trial Court of Antipolo City, Branch 73 in Civil Case No. 94-3423 is hereby **REVERSED AND SET ASIDE** and a new one is rendered declaring, as follows:

1. Appellant Roberto S. Barangan is entitled to the possession of the subject property-Lot 11, Block 5, of the subdivision plan (LRC) Psd-60846 situated in Rodville Subdivision, Barangay San Luis, Antipolo, Rizal, covered by Transfer Certificate of Title No. N-10772 of the Registry of Deeds for the Province of Rizal;
2. Appellees and all persons deriving rights under them who are occupants of the subject property are ordered to vacate the subject

property and surrender peaceful possession thereof to appellant;

3. Appellees and all persons deriving rights under them who are occupants of the subject property are ordered to pay to appellant reasonable compensation for the use of the subject property in the amount of Php3,000.00 per month from 17 November 1994 until they vacate the subject property and turn over the possession to appellant, plus legal interest of 12% per annum, from the date of promulgation of this Decision until full payment of all said reasonable compensation; and

4. Appellees are ordered to pay to appellant the amount of Php100,000.00 as moral damages, Php50,000.00 as temperate or moderate damages, and Php50,000.00 as attorney's fees.

Cost against appellees.

SO ORDERED.^[47]

Issues

Hence, the instant petition with the following issues:

1. WHETHER X X X [BARANGAN] WAS ABLE TO IDENTIFY THE EXACT LOCATION OF HIS PROPERTY DESCRIBED UNDER TCT NO. N-10772 [AND WHETHER] THE PROPERTY OCCUPIED BY DULFO [IS] THE SAME PROPERTY CLAIMED BY [BARANGAN];
2. WHETHER X X X [BARANGAN] HAS FULLY SATISFIED THE REQUIREMENTS OF ARTICLE 434 OF THE CIVIL CODE X X X;
3. WHETHER X X X THE AMOUNT OF PHP3,000.00 AS MONTHLY LEASE RENTAL OR COMPENSATION FOR THE USE OF THE PROPERTY IS REASONABLE;
4. WHETHER X X X THE GRANT OF XXX MORAL, TEMPERATE OR MODERATE [DAMAGES] AND ATTORNEY'S FEES, X X X IS IN ACCORDANCE WITH EVIDENCE AND LAW;
5. WHETHER X X X LACHES AND PRESCRIPTION [HAVE] BARRED THE FILING OF THIS CASE.^[48]

Petitioners' Arguments

Petitioners Dulfo and Jakosalem contend that the CA erred in reversing the findings of the RTC as respondent Barangan's property was not properly identified.^[49] They claim that the relocation survey conducted by Engr. Jonco violated the agreement they made before the *Barangay* that the survey should be conducted in the presence of both parties.^[50] They also claim that the title number stated in the Land Purchase Agreement is not the same number found in the Deed of Absolute

Sale.^[51] They likewise insist that laches and prescription barred respondent Barangan from filing the instant case.^[52] Lastly, they contend that the damages ordered by the CA are exorbitant, excessive and without factual and legal bases.^[53]

Respondent's Arguments

Respondent Barangan, on the other hand, argues that being the registered owner of the subject property, he is entitled to its possession.^[54] He maintains that his Torrens title prevails over the Assignment of a Right^[55] presented by petitioners.^[56] Moreover, laches and prescription do not apply against him as there was no delay on his part to assert his right to the property.^[57]

Our Ruling

The petition lacks merit.

Respondent Barangan is entitled to recover the subject property

Article 434 of the Civil Code provides that “[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant’s claim.” In other words, in order to recover possession, a person must prove (1) the identity of the land claimed, and (2) his title.^[58]

In this case, respondent Barangan was able to prove the identity of the property and his title. To prove his title to the property, he presented in evidence the following documents: (1) Land Purchase Agreement;^[59] (2) Deed of Absolute Sale;^[60] (3) and a Torrens title registered under his name, TCT No. N-10772.^[61] To prove the identity of the property, he offered the testimonies of Engr. Jonco, who conducted the relocation survey,^[62] and Estardo, the caretaker of the subdivision, who showed respondent Barangan the exact location of the subject property.^[63] He likewise submitted as evidence the Verification Survey Plan of Lot 11, Block 5, (LRC) Psd-60846, which was plotted based on the technical description appearing on respondent Barangan’s title.^[64]

Petitioners’ contention that the relocation survey was done in violation of their agreement deserves scant consideration. Petitioners were informed^[65] beforehand of the scheduled relocation survey on May 29, 1994 but they opted not to attend. In fact, as testified by respondent Barangan and Engr. Jonco, the relocation survey had to be postponed several times because petitioners refused to participate.^[66] By refusing to attend and participate in the relocation survey, they are now estopped from questioning the results of the relocation survey.^[67]

Records also show that during the trial, the RTC ordered the DENR to conduct a resurvey of the subject property; but petitioners moved that the same be abandoned claiming that the resurvey would only delay the proceedings.^[68] To us, the persistent refusal of petitioners to participate in the relocation survey does not