

SECOND DIVISION

[G.R. No. 187326, June 15, 2011]

PHILIPPINE ARMY, 5th INFANTRY DIVISION, THROUGH GEN. ALEXANDER YAPSING, LT. COL. NICANOR PENULIAR, AND LT. COL. FERNANDO PASION, PETITIONERS, VS. SPOUSES MAJOR CONSTANCIO PAMITTAN (RET.) AND LEONOR PAMITTAN, SPOUSES ALBERTO TALINIO AND MARIA CHONA P. TALINIO, SPOUSES T/SGT. MELCHOR BACULI AND LAARNI BACULI, SPOUSES S/SGT. JUAN PALASIGUE AND MARILOU PALASIGUE, SPOUSES GRANT PAJARILLO AND FRANCES PAJARILLO, SPOUSES M/SGT. EDGAR ANOG AND ZORAIDA ANOG, AND SPOUSES 2LT. MELITO PAPA AND PINKY PAPA, FOR THEMSELVES AND FOR OTHER OCCUPANTS OF SITIO SAN CARLOS, UPI, GAMU, ISABELA, BY WAY OF CLASS SUIT, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

This petition for review^[1] assails the 15 January 2009 Decision^[2] and the 10 March 2009 Resolution^[3] of the Court of Appeals in CA-G.R. CV No. 89862. The Court of Appeals set aside the Orders dated 11 April 2007 and 19 June 2007 of the Regional Trial Court (RTC), Branch 18, Ilagan, Isabela in Civil Case No. 1377, and remanded the case to the RTC for further proceedings.

The Facts

On 7 July 2006, respondents filed a complaint for Damages, Injunction with Prayer for a Writ of Preliminary Mandatory Injunction, and Temporary Restraining Order against petitioners. Petitioners Gen. Yapsing, Lt. Col. Penuliar and Lt. Col. Pasion were the Commanding General of the 5th Infantry Division, Philippine Army, Task Force Bantay Commander, and Camp Commander of Camp Melchor F. dela Cruz, 5th Infantry Division, PA, Headquarters in Upi, Gamu, Isabela, respectively.

Respondents averred that they have been occupying and residing on the land which is part of the Breeding Station of the Department of Agriculture (DA), located in Sitio San Carlos, Barangay Upi in Gamu, Isabela for the past twenty (20) to thirty (30) years. Their occupation of the land was allegedly pursuant to a prior arrangement between the DA and the then higher authorities in Camp Melchor F. dela Cruz, on the condition that the DA retains ownership over the land. Respondents averred that on 3 July 2006, upon orders of petitioners, active elements of the 5th Infantry Division, PA, tore down, demolished, and dismantled

their houses. Respondents, through their counsel, demanded in writing that petitioners and their subordinates cease and desist from further demolishing their dwellings; otherwise, they would sue for damages. On 4 July 2006, the demolition crew continued tearing down other houses despite the respondents' demand letter claiming that the demolition was illegal because of lack of a court order.

On 12 July 2006, the RTC issued a temporary restraining order, enjoining and restraining for seventy two (72) hours petitioners and their agents or representatives from further continuing with the demolition.

The Office of the Solicitor General (OSG) moved to dismiss the complaint, arguing that: (1) the complaint states no cause of action; (2) the RTC has no jurisdiction to hear the case; and (3) plaintiffs (respondents herein) are not entitled to a writ of preliminary injunction and/or temporary restraining order.^[4]

On 7 November 2006, the OSG filed its Memorandum^[5] alleging that:

(1) On 8 June 1990, the Armed Forces of the Philippines (AFP) laid down its policy against squatting and unauthorized construction of residential houses and facilities inside military reservations. Major Service Commanders and Area Commanders of all military reservations were directed to implement the said policy within their respective commands.

(2) Sometime in 1994, the Commanding Officer, 5th Infantry Division, Camp Melchor dela Cruz, Upi, Gamu Isabela entered into a Construction Agreement with herein plaintiffs most of whom were in active service of the military. (Annexes "1" to "4")

(3) By virtue of the said agreement, plaintiffs were granted construction permits subject to certain conditions stated therein, one of which is:

The applicant shall be mandated to vacate the residential unit upon retirement from the military service;

The area subject of this permit shall be returned to the control of the Camp Commander in case the same is needed for military use in line with the base development plan thirty (30) days from notice of the Camp Commander.

(4) On August 12, 2004, Commanding Officer Lt. Col. Felix F. Calinag, in compliance with the directive of the AFP General Headquarters on squatting, otherwise known to as "Oplan Linis," ordered all military personnel and civilians unlawfully residing inside Camp dela Cruz to vacate their residences within the soonest possible time;

(5) As a result of the aforementioned directive, a large number of military personnel and civilians who had built their houses within the camp, voluntarily demolished the same and left the camp;

(6) On April 7, 2006, demands were again made on those parties,

including herein plaintiffs, who refused to vacate their premises. These demands were reiterated in June 26, 2006 on all the plaintiffs (Annexes "5" to "11")

(7) On July 3, 2006, or after more than three (3) months from receipt of plaintiff's notice to vacate, the command effected the demolition of the structures in the subject property. Manifestly, defendants effected the demolition in accord with the terms and conditions agreed upon by plaintiffs and the government under the subject construction permits. Such demolition was effected only after reasonable time was given to all plaintiffs to remove their existing structures.^[6]

On 11 April 2007, the RTC issued an order^[7] granting the motion to dismiss. Respondents moved for reconsideration, which the RTC denied in its order^[8] dated 19 June 2007.

Respondents appealed to the Court of Appeals.

The Ruling of the Court of Appeals

On 15 January 2009, the Court of Appeals promulgated its decision, reversing and setting aside the assailed orders of the RTC. The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the appealed Orders dated April 11, 2007 and June 19, 2007 of the RTC, Branch 18, Ilagan, Isabela in Civil Case No. 1377 [are] REVERSED and SET ASIDE. This case is REMANDED to the RTC, Branch 18, Ilagan, Isabela for further proceedings. In order to maintain the status quo in this case, let a writ of preliminary injunction be issued enjoining defendants-appellants Ge. Yapsing, Lt. Col. Penuliar and Lt. Col. Pasion and/or their agents and/or representatives from committing further acts of demolition and/or dispossession. A bond is hereby fixed in the amount of P880,000.00 to be executed by plaintiffs-appellants to defendants-appellees to the effect that the former will pay the latter all damages which the latter may sustain by reason of this writ should the court finally decide that the former are not entitled thereto.

SO ORDERED.^[9]

The Court of Appeals ruled that to determine whether petitioners acted within the scope of their military authority in ordering the demolition of respondents' houses on the subject property and whether the RTC has jurisdiction over the subject matter of the case requires the resolution of the issue of ownership of the subject property. Furthermore, the Court of Appeals held that the determination of whether the subject property belongs to the DA or the Armed Forces of the Philippines could be best resolved in a full blown hearing on the merits before the lower court.

Petitioners filed a motion for reconsideration, which the Court of Appeals denied in its Resolution dated 10 March 2009.

Hence, this petition.

The Issue

The sole issue for resolution is whether the Court of Appeals erred in setting aside the orders of the RTC and remanding the case to the RTC for a full-blown trial.

The Ruling of the Court

We find the petition meritorious.

Generally, a motion to dismiss based on failure to state a cause of action hypothetically admits the truth of the allegations in the complaint and in order to sustain a dismissal based on lack of cause of action, the insufficiency of the cause of action must appear on the face of the complaint.^[10] However, this rule is not without exception. Thus, a motion to dismiss "does not admit allegations of which the court will take judicial notice are not true, nor does the rule apply to legally impossible facts, nor to facts inadmissible in evidence, **nor to facts which appear by record or document included in the pleadings to be unfounded.**"^[11] Indeed, in some cases, the court may also consider, in addition to the complaint, other pleadings submitted by the parties and the annexes or documents appended to it.^[12]

In this case, the RTC considered other pleadings, aside from the complaint, filed by both parties, including the annexes in determining the sufficiency of the cause of action.^[13]

It is undisputed that respondents neither own nor lease the land on which they constructed their houses. Nevertheless, respondents insist that the demolition of their houses upon orders of petitioners was illegal because their houses stood on property which forms part of the DA Breeding Station and not within the military reservation. However, as found by the RTC, respondents' contention is belied by the survey report of the Department of Environment and Natural Resources (DENR). In its Order dated 11 April 2007, the RTC found that contrary to respondents' allegations in their complaint, the land occupied by respondents is within the military reservation based on the survey conducted by the DENR. In the Memorandum^[14] dated 7 June 2005 of the Assistant Chief of the Surveys Division addressed to the Regional Technical Director for Lands of the DENR, it was stated that on 18 May 2005, the Survey Team proceeded to Upi, Gamu, Isabela to conduct a verification survey of the boundary of the military reservation and the DA Stock Farm to determine the exact location of the 82 household dwellers who were occupying the area subject of the verification survey. The Assistant Chief of the Surveys Division reported that the Survey Team found that the area occupied by the 82 household dwellers with an area of about 27,251 square meters is within the perimeter of the military reservation. The report stated:

Below is our findings:

1. Facts gathered