

THIRD DIVISION

[G.R. No. 173289, February 17, 2010]

**ELAND PHILIPPINES, INC., PETITIONER, VS. AZUCENA GARCIA,
ELINO FAJARDO, AND HEIR OF TIBURCIO MALABANAN NAMED
TERESA MALABANAN, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the decision^[1] dated February 28, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67417, which dismissed the appeal of petitioner Eland Philippines, Inc. and affirmed the Resolutions dated November 3, 1999 and June 28, 2006 of Branch 18, Regional Trial Court (RTC) of Tagaytay City.

The facts of the case, as shown in the records, are the following:

Respondents Azucena Garcia, Elinio Fajardo, and Teresa Malabanan, the heir of Tiburcio Malabanan, filed a Complaint^[2] dated March 2, 1998 for Quieting of Title with Writ of Preliminary Injunction with the RTC, Branch XVIII, Tagaytay City against petitioner Eland Philippines, Inc. Respondents claimed that they are the owners, in fee simple title, of a parcel of land identified as Lot 9250 Cad-355, Tagaytay Cadastre, Plan Ap-04-008367, situated in *Barangay* Iruhin, Tagaytay City, containing an area of Two Hundred Forty-Four Thousand One Hundred Twelve (244,112) square meters, by occupation and possession under the provisions of Sec. 48 (b)^[3] of the Public Land Law or Commonwealth Act No. 141, as amended.

For having been in continuous, public, and adverse possession as owners of the said lot for at least thirty years, respondents stated that they were not aware of any person or entity who had a legal or equitable interest or claim on the same lot until the time they were requesting that the lot be declared for tax purposes. They found out that the lot was the subject of a land registration proceeding that had already been decided by the same court^[4] where their complaint was filed. They also found out that Decree No. N-217313, LRC Record No. N-62686, was already issued on August 20, 1997 to the petitioner pursuant to the Decision dated June 7, 1994 of the same court. They averred that they were not notified of the said land registration case; thus, they claimed the presence of misrepresentation amounting to actual or extrinsic fraud. Thus, they argued that they were also entitled to a writ of preliminary injunction in order to restrain or enjoin petitioner, its privies, agents, representatives, and all other persons acting on its behalf, to refrain from committing acts of dispossession on the subject lot.

Summons, together with a copy of the complaint, were served on the petitioner on April 7, 1998. On April 29, 1998, petitioner filed an Entry of Appearance with Motion

for Extension of Time,^[5] which the trial court granted^[6] for a period of ten (10) days within which to file a responsive pleading. Petitioner filed a Second Motion for Extension of Time to File Answer^[7] dated April 29, 1998, which the trial court likewise granted.^[8]

Thereafter, petitioner filed a Motion to Dismiss^[9] dated May 9, 1998, stating that the pleading asserting the claim of respondents stated no cause of action, and that the latter were not entitled to the issuance of a writ of preliminary injunction, setting the same for hearing on May 21, 1998. On the date of the hearing, the trial court issued an Order,^[10] which granted the respondents ten (10) days from that day to file a comment, and set the date of the hearing on July 23, 1998. Respondents filed a Motion to Admit Comment/Opposition to Defendant Eland,^[11] together with the corresponding Comment/Opposition^[12] dated June 8, 1998.

On the scheduled hearing of September 23, 1998, the trial court issued an Order,^[13] considering the Motion to Dismiss submitted for resolution due to the non-appearance of the parties and their respective counsels. The said motion was eventually denied by the trial court in an Order^[14] dated September 25, 1998, ruling that the allegations in the complaint established a cause of action and enjoined petitioner Eland to file its answer to the complaint within ten (10) days from receipt of the same. Petitioner then filed two Motions for Extension to File an Answer.^[15]

Petitioner, on November 9, 1998, filed a Motion for Reconsideration^[16] of the trial court's Order dated September 25, 1998, denying the former's Motion to Dismiss. Again, petitioner filed a Motion for Final Extension of Time to File Answer^[17] dated November 6, 1998. Respondents filed their Comment/Opposition to Motion for Reconsideration dated November 24, 1998. Subsequently, the trial court denied petitioner's motion for reconsideration in an Order^[18] dated January 11, 1999.

Meanwhile, respondents filed a Motion to Declare Defendant Eland in Default^[19] dated November 17, 1998. On December 4, 1998 Petitioner Eland filed its Comment (on Plaintiff's Motion to Declare Defendant Eland in Default)^[20] dated December 2, 1998, while respondents filed a Reply to Comment (on Plaintiff's Motion to Declare Defendant Eland in Default)^[21] dated December 29, 1998. Thereafter, the trial court issued an Order^[22] dated January 11, 1999 declaring the petitioner in default and allowed the respondents to present evidence *ex parte*. Petitioner filed a Motion for Reconsideration (of the Order dated 11 January 1999)^[23] dated February 5, 1999 on the trial court's denial of its motion to dismiss and in declaring it in default. The trial court in an Order^[24] dated March 18, 1999, denied the former and granted the latter. In the same Order, the trial court admitted petitioner's Answer *Ad Cautelam*.

Earlier, petitioner filed its Answer *Ad Cautelam* (With Compulsory Counterclaim)^[25] dated November 12, 1998. Respondents countered by filing a Motion to Expunge Eland's Answer from the Records^[26] dated December 2, 1998. Petitioner filed its Opposition (to Plaintiff's Motion to Expunge Eland's Answer from the Records)^[27] dated December 21, 1998, as well as a Comment (on Plaintiff's Motion to Expunge

Eland's Answer from the Records)^[28] dated January 26, 1999.

Consequently, respondents filed a Motion to Set Presentation of Evidence *Ex Parte*^[29] dated January 18, 1999, which was granted in an Order^[30] dated January 22, 1999.

On January 28, 1999, respondents presented their evidence before the Clerk of Court of the trial court which ended on February 3, 1999; and, on February 10, 1999, respondents filed their Formal Offer of Evidence.^[31] However, petitioner filed an Urgent Motion to Suspend Plaintiff's *Ex Parte* Presentation of Evidence^[32] dated February 8, 1999. In that regard, the trial court issued an Order^[33] dated February 11, 1999 directing the Clerk of Court to suspend the proceedings.

On May 14, 1999, respondents filed a Motion for Clarification^[34] as to whether or not the evidence presented *ex parte* was nullified by the admission of petitioner's Answer *Ad Cautelam*. Petitioner filed its Comment^[35] dated May 13, 1999 on the said motion for clarification.

A pre-trial conference was scheduled on May 27, 1999, wherein the parties submitted their pre-trial briefs.^[36] However, petitioner filed a Motion to Suspend Proceedings^[37] dated May 24, 1999 on the ground that the same petitioner had filed a petition for *certiorari* with the CA, asking for the nullification of the Order dated March 18, 1999 of the trial court and for the affirmation of its earlier Order denying petitioner's Motion to Dismiss. The petition for *certiorari* was subsequently denied; and a copy of the Resolution^[38] dated June 14, 1999 was received by the trial court. Hence, in an Order^[39] dated July 7, 1999, the trial court ruled that the reception of evidence already presented by the respondents before the Clerk of Court remained as part of the records of the case, and that the petitioner had the right to cross-examine the witness and to comment on the documentary exhibits already presented. Consequently, petitioner filed a Motion for Reconsideration^[40] dated July 19, 1999, but it was denied by the trial court in an Omnibus Order^[41] dated September 14, 1999.

Eventually, respondents filed a Motion for Summary Judgment^[42] dated August 5, 1999, while petitioner filed its Opposition^[43] to the Motion dated August 31, 1999. In its Resolution^[44] dated November 3, 1999, the trial court found favor on the respondents. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, the motion for summary judgment is hereby GRANTED and it is hereby adjudged that:

1. Plaintiffs are the absolute owners and rightful possessors of Lot 9250, CAD-355, Tagaytay Cadastre, subject to the rights of occupancy of the farm workers on the one-third area thereof;
2. The Judgment dated June 7, 1994 in Land Registration Case No. TG-423 is set aside and the Decree No. N-217313, LRC Record No. N-62686 dated August 20, 1997 is null and void;

3. The Original Transfer Certificate of Title is ordered to be canceled, as well as tax declaration covering Lot 9250, Cad-355.

SO ORDERED.

Petitioner appealed the Resolution of the trial court with the CA, which dismissed it in a Decision dated February 28, 2006, which reads:

WHEREFORE, for lack of merit, the appeal is DISMISSED. The assailed Resolution dated November 3, 1999, of the RTC, Branch 18, Tagaytay City, in Civil Case No. TG-1784, is AFFIRMED. No pronouncement as to cost.

SO ORDERED.

Hence, the present petition.

The grounds relied upon by the petitioner are the following:

5.1 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT RULED THAT RESPONDENTS' MOTION FOR SUMMARY JUDGMENT DATED AUGUST 05, 1999 DID NOT VIOLATE THE TEN (10)-DAY NOTICE RULE UNDER SECTION 3, RULE 35 OF THE 1997 RULES OF CIVIL PROCEDURE.

5.2 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT RULED THAT A MOTION FOR SUMMARY JUDGMENT IS PROPER IN AN ACTION FOR QUIETING OF TITLE.

5.3 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT RULED THAT THERE ARE NO GENUINE FACTUAL AND TRIABLE ISSUES IN CIVIL CASE NO. TG-1784.

5.4 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT UPHELD THE RESOLUTION DATED NOVEMBER 03, 1999 OF THE COURT A *QUO*, BASED ON TESTIMONIES OF RESPONDENTS' WITNESSES TAKEN WITHOUT GRANTING HEREIN PETITIONER THE RIGHT TO CROSS-EXAMINE AND UPON DOCUMENTARY EXHIBITS PRESENTED BUT NOT ADMITTED AS EVIDENCE.

5.5 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT UPHELD THE RESOLUTION DATED NOVEMBER 03, 1999 OF THE COURT A *QUO* BASED ON FALSIFIED "EVIDENCE."

5.6 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT FAILED TO RULE THAT THE COURT A QUO PATENTLY DEPRIVED PETITIONER OF ITS RIGHT TO DUE PROCESS IN RENDERING ITS SUMMARY JUDGMENT.

5.7 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT HELD THAT THE COURT A QUO HAS JURISDICTION TO CANCEL PETITIONER'S ORIGINAL CERTIFICATE OF TITLE (OCT) NO. 0-660 IN AN ACTION TO QUIET TITLE.

According to the petitioner, a motion for summary judgment must be served at least ten (10) days before the date set for hearing thereof, and that a hearing must be held to hear the parties on the propriety of a summary judgment, per Sec. 3 of Rule 35 of the Revised Rules of Court, which was not observed because the petitioner received a copy of the respondents' motion for summary judgment only on August 20, 1999, or the very same day that the motion was set for hearing. Petitioner further claims that the trial court never conducted any hearing on the motion for summary judgment.

Petitioner also argued that a summary judgment is only available to a claimant seeking to recover upon a claim, counterclaim or cross-claim or to obtain a declaratory relief, and does not include cases for quieting of title. Furthermore, petitioner also averred that a summary judgment has no place in a case where genuine factual and triable issues exist, like in the present case. It added that the genuine and triable issues were all raised in its Answer *Ad Cautelam*.

Another ground relied upon by petitioner is its failure to cross-examine the witnesses for the respondents without fault on its part. It also stated that the trial court did not issue any order admitting in evidence the documentary exhibits presented by the respondents. Hence, according to the petitioner, the trial court gravely erred in relying upon the testimonies of the witnesses for the respondents, without having the latter cross-examined; and upon the documentary exhibits presented but not admitted as evidence.

Petitioner further claimed that the trial court based its Resolution dated November 3, 1999 on falsified evidence.

Lastly, petitioner raised the issue that by rendering summary judgment, the trial court deprived the former of its right to due process.

Respondents, in their Comment^[45] dated October 16, 2006, countered the first issue raised by the petitioner, stating that their filing of the motion for summary judgment fourteen (14) days before the requested hearing of the same motion was in compliance with Sec. 3, Rule 35 of the Rules of Court.

As to the second and third issues, respondents argued that petitioner had a constricted perception of the coverage of the Rules of Summary Judgment, and that the latter's citation of cases decided by this Court showed the diverse causes of