

## SECOND DIVISION

[ G.R. No. 169336, March 18, 2010 ]

**SPOUSES MELCHOR AND SATURNINA ALDE, PETITIONERS, VS.  
RONALD B. BERNAL, OLYMPIA B. BERNAL, JUANITO B. BERNAL,  
AND MYRNA D. BERNAL, RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review<sup>[1]</sup> of the 6 May 2005<sup>[2]</sup> and 3 August 2005<sup>[3]</sup> Resolutions of the Court of Appeals in CA G.R. SP No. 00195. In its 6 May 2005 Resolution, the Court of Appeals dismissed the petition for review filed by petitioners Melchor and Saturnina Alde (petitioners) for failure to comply with the Rules of Court. In its 3 August 2005 Resolution, the Court of Appeals denied petitioners' motion for reconsideration.

#### The Facts

Sometime in 1957, Adriano Bernal (Adriano), father of respondents Ronald, Olympia, Juanito and Myrna, all surnamed Bernal (respondents), entered upon, occupied and cultivated a parcel of land situated in San Antonio West, Don Carlos, Bukidnon. After a survey in 1992, the property was designated as Cadastral Lot No. 1123, Cad 1119-D, Case 8 with an area of 8.5043 hectares.

In January 1994, Adriano secured a loan of P5,000 from petitioners and turned over physical possession, occupation and cultivation of 1.5 hectares of the property.<sup>[4]</sup> In June 1994, Adriano secured another loan of P10,000 from petitioners and used another 1.5 hectares as security for its payment.<sup>[5]</sup> Petitioners then took possession and cultivated another 1.5 hectares of the property.

In September 1994, Adriano informed petitioners that he could no longer pay the loan obligation and that he was selling the whole property to petitioners for P80,000. The sale was evidenced by a "Kasabotan sa Palit sa Yuta"<sup>[6]</sup> dated 22 September 1994, signed by Adriano as owner of the land, Leona Bernal as Adriano's wife, with respondent Ronald Bernal (Ronald), among others, as witness. Petitioners took possession of the whole property and continued the cultivation of the land.

On 18 October 1994, Original Certificate of Title No. AO-7236<sup>[7]</sup> (OCT No. AO-7236) in the names of Adriano for an area of 3 hectares, Ronald for an area of 3 hectares, and respondent Juanito Bernal (Juanito) for an area of 2.5043 hectares was issued. OCT No. AO-7236 originated from Certificate of Land Ownership Award No. 00073938 (CLOA No. 00073938) issued by the Department of Agrarian Reform

pursuant to Republic Act No. 6657.<sup>[8]</sup>

Then, sometime in April 2002, respondents demanded from petitioners P50,000 as additional consideration for the property. Respondents also informed petitioners, for the first time, of the existence of OCT No. AO-7236. Petitioners rejected respondents' request since they already bought the entire property in 1994 and requested that respondents turn-over to them OCT No. AO-7236. Respondents refused.

On 13 June 2002, respondents filed a complaint for recovery of ownership and possession of parcels of land with prayer for the issuance of a preliminary mandatory injunction and damages against petitioners before the Municipal Circuit Trial Court of Don Carlos-Kitaotao-Dangcagan, Don Carlos, Bukidnon (MCTC).<sup>[9]</sup> Respondents claimed that Adriano erroneously included their shares of the property in the sale. Juanito claimed that Adriano gave him 2.5043 hectares when he got married in 1978. While Ronald claimed that Adriano gave him 3 hectares when he got married in 1987.

In their Answer,<sup>[10]</sup> petitioners declared that they have been in open, notorious and peaceful occupation, possession and cultivation of the property in the concept of an owner since 1994 when they bought the property from Adriano. Petitioners argued that respondents have no legal right over the property and that CLOA No. 00073938 issued in respondents' name is void. Petitioners also asked that they be declared the absolute and legal owners of the property.

### **The Ruling of the MCTC**

In its 19 November 2003 Decision,<sup>[11]</sup> the MCTC dismissed respondents' complaint. According to the MCTC, Adriano was the sole owner of the property and that Adriano sold the whole property to petitioners. The MCTC found no evidence of the transfer of ownership of the property from Adriano to Juanito and Ronald.

Respondents appealed to the Regional Trial Court, Malaybalay City, Branch 9 (RTC).

### **The Ruling of the RTC**

In its 9 August 2004 Decision,<sup>[12]</sup> the RTC declared that, from the start until the sale to petitioners, the property was owned in common by Adriano, Juanito and Ronald. The dispositive portion of the RTC's 9 August 2004 Decision reads:

WHEREFORE, the decision of the Lower Court is hereby modified as follows:

- 1). Declaring the "Kasabutan Sa Palit Sa Yuta" dated September 22, 1994, to be valid legally and enforceable and must be adjudged to be owned by the defendants-appellees only in so far as the same refers to the portion previously owned by Adriano Bernal.
- 2). Declaring the plaintiffs-appellants as still the true and absolute owners of the respective three (3) hectares and 2.5043 hectares as above stated and must be issued separately [sic] a title therefor.

- 3). Ordering the defendants-appellees to return and deliver possession of the properties above mentioned to the plaintiffs-appellants.
- 4). Directing the Registry of Deeds to issue separate Certificate[s] of Title to the plaintiffs-appellants Ronald Bernal for 3.0000 hectares and Juanito Bernal for 2.5043 hectares and to the defendants-appellees the remaining portion of three hectares.
- 5). No award of any damages shall be awarded to any of the parties and with costs de officio.

SO ORDERED.<sup>[13]</sup>

Petitioners filed a motion for reconsideration. In its 25 October 2004 Order,<sup>[14]</sup> the RTC denied the motion.

Petitioners filed an appeal before the Court of Appeals.

### **The Ruling of the Court of Appeals**

In its 6 May 2005 Resolution, the Court of Appeals dismissed the petition on technical grounds. The 6 May 2005 Resolution of the Court of Appeals declared:

Upon perusal of the case records, this Court FINDS the following infirmities that warrants the outright dismissal of the instant case, to wit:

1. The Regional Trial Court was not furnished with a copy of the petition, in violation of Section 1 of Rule 42 of the 1997 Revised Rules of Court;
2. There was no proper verification, in violation of Section 4 of Rule 7 of the 1997 Revised Rules of Civil Procedure; and
3. The nature of the case should only be Petition for Review and not Petition for Review on Certiorari because the latter would fall under Rule 45, an action before the Supreme Court.

Wherefore, premises considered, the instant Petition is hereby DISMISSED.

SO ORDERED.<sup>[15]</sup>

Petitioners filed a motion for reconsideration. In its 3 August 2005 Resolution, the Court of Appeals denied the motion.

Hence, this petition.

### **The Issues**

Petitioners raise the following issues:

- I. THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR REVIEW ON PURELY TECHNICAL GROUNDS

DISREGARDING THE MERITS OF THE APPEAL;

II. THE HONORABLE COURT OF APPEALS ERRED IN FAILING TO APPRECIATE THE MERITS OF THE CASE WHICH COULD HAVE REVERSED THE DECISION OF THE LOWER COURT HAD THE PETITION FOR REVIEW BEEN GIVEN DUE COURSE.<sup>[16]</sup>

### **The Ruling of the Court**

The petition is meritorious.

The Court of Appeals' dismissal of petitioners' petition on purely technical grounds was unwarranted. We agree with petitioners that the late filing and service of a copy of the petition to the RTC was not a substantial infirmity that should cause the outright dismissal of the petition.

Likewise, the verification of a pleading is only a formal, not jurisdictional, requirement.<sup>[17]</sup> The purpose of requiring a verification is to secure an assurance that the allegations in the petition are true and correct, not merely speculative.<sup>[18]</sup> This requirement is simply a condition affecting the form of pleadings, and non-compliance therewith does not necessarily render the pleading fatally defective.<sup>[19]</sup>

The dismissal of appeals on purely technical grounds is frowned upon for it is far more better for the courts to excuse a technical lapse and afford the parties a review of the case on the merits to attain the ends of justice.<sup>[20]</sup>

### ***Respondents Failed to Prove their Title over the Property***

As to the merits of the case, petitioners argue that, contrary to the findings of the RTC, respondents failed to present any evidence to show that they owned parts of the property in dispute. Petitioners insist that the claim of Juanito and Ronald that Adriano donated to them their respective shares in the property is not supported by any evidence. Petitioners maintain that Juanito and Ronald's claims are self-serving and merely fabricated.

As to the "Kasabotan sa Palit sa Yuta," petitioners point out that it was prepared in the local dialect of which Adriano and Ronald were conversant. According to petitioners, Adriano and Ronald cannot just deny knowledge of the said document and claim that they just affixed their signatures without reading the document. Petitioners maintain that Adriano was the sole owner of the property and that he had the right to sell, transfer, convey and dispose of the same.

Petitioners aver that they have been in open, public and peaceful possession, occupation and cultivation of the property in the concept of an owner since the sale of the property by Adriano in 1994. Petitioners pray that they be declared the absolute and legal owners of the property. Petitioners also pray that respondents be ordered to turn over CLOA No. 00073938 and OCT No. AO-7236 to them, the real owners of the property.<sup>[21]</sup>

On the other hand, respondents insist that Adriano could not have sold the entire