

THIRD DIVISION

[G.R. No. 178411, June 23, 2010]

OFFICE OF THE CITY MAYOR OF PARAÑAQUE CITY, OFFICE OF THE CITY ADMINISTRATOR OF PARAÑAQUE CITY, OFFICE OF THE CITY ENGINEER OF PARAÑAQUE CITY, OFFICE OF THE CITY PLANNING AND DEVELOPMENT COORDINATOR, OFFICE OF THE BARANGAY CAPTAIN AND SANGGUNIANG PAMBARANGAY OF BARANGAY VITALEZ, PARAÑAQUE CITY, TERESITA A. GATCHALIAN, ENRICO R. ESGUERRA, ERNESTO T. PRACALE, JR., MANUEL M. ARGOTE, CONRADO M. CANLAS, JOSEPHINE S. DAUGOY, ALLAN L. GONZALES, ESTER C. ASEHAN, MANUEL A. FUENTES, AND MYRNA P. ROSALES, PETITIONERS, VS. MARIO D. EBIO AND HIS CHILDREN/HEIRS NAMELY, ARTURO V. EBIO, EDUARDO V. EBIO, RENATO V. EBIO, LOURDES E. MAGTANGOB, MILA V. EBIO, AND ARNEL V. EBIO, RESPONDENTS.

D E C I S I O N

VILLARAMA, JR., J.:

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the January 31, 2007 Decision^[1] and June 8, 2007 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 91350 allegedly for being contrary to law and jurisprudence. The CA had reversed the Order^[3] of the Regional Trial Court (RTC) of Parañaque City, Branch 196, issued on April 29, 2005 in Civil Case No. 05-0155.

Below are the facts.

Respondents claim that they are the absolute owners of a parcel of land consisting of 406 square meters, more or less, located at 9781 Vitalez Compound in Barangay Vitalez, Parañaque City and covered by Tax Declaration Nos. 01027 and 01472 in the name of respondent Mario D. Ebio. Said land was an accretion of Cut-cut creek. Respondents assert that the original occupant and possessor of the said parcel of land was their great grandfather, Jose Vitalez. Sometime in 1930, Jose gave the land to his son, Pedro Vitalez. From then on, Pedro continuously and exclusively occupied and possessed the said lot. In 1966, after executing an affidavit declaring possession and occupancy,^[4] Pedro was able to obtain a tax declaration over the said property in his name.^[5] Since then, respondents have been religiously paying real property taxes for the said property.^[6]

Meanwhile, in 1961, respondent Mario Ebio married Pedro's daughter, Zenaida. Upon Pedro's advice, the couple established their home on the said lot. In April 1964 and in October 1971, Mario Ebio secured building permits from the Parañaque municipal office for the construction of their house within the said compound.^[7] On April 21,

1987, Pedro executed a notarized Transfer of Rights^[8] ceding his claim over the entire parcel of land in favor of Mario Ebio. Subsequently, the tax declarations under Pedro's name were cancelled and new ones were issued in Mario Ebio's name.^[9]

On March 30, 1999, the Office of the *Sangguniang Barangay* of Vitalez passed Resolution No. 08, series of 1999^[10] seeking assistance from the City Government of Parañaque for the construction of an access road along Cut-cut Creek located in the said barangay. The proposed road, projected to be eight (8) meters wide and sixty (60) meters long, will run from Urma Drive to the main road of Vitalez Compound^[11] traversing the lot occupied by the respondents. When the city government advised all the affected residents to vacate the said area, respondents immediately registered their opposition thereto. As a result, the road project was temporarily suspended.^[12]

In January 2003, however, respondents were surprised when several officials from the barangay and the city planning office proceeded to cut eight (8) coconut trees planted on the said lot. Respondents filed letter-complaints before the Regional Director of the Bureau of Lands, the Department of Interior and Local Government and the Office of the Vice Mayor.^[13] On June 29, 2003, the *Sangguniang Barangay* of Vitalez held a meeting to discuss the construction of the proposed road. In the said meeting, respondents asserted their opposition to the proposed project and their claim of ownership over the affected property.^[14] On November 14, 2003, respondents attended another meeting with officials from the city government, but no definite agreement was reached by and among the parties.^[15]

On March 28, 2005, City Administrator Noli Aldip sent a letter to the respondents ordering them to vacate the area within the next thirty (30) days, or be physically evicted from the said property.^[16] Respondents sent a letter to the Office of the City Administrator asserting, in sum, their claim over the subject property and expressing intent for a further dialogue.^[17] The request remained unheeded.

Threatened of being evicted, respondents went to the RTC of Parañaque City on April 21, 2005 and applied for a writ of preliminary injunction against petitioners.^[18] In the course of the proceedings, respondents admitted before the trial court that they have a pending application for the issuance of a sales patent before the Department of Environment and Natural Resources (DENR).^[19]

On April 29, 2005, the RTC issued an Order^[20] denying the petition for lack of merit. The trial court reasoned that respondents were not able to prove successfully that they have an established right to the property since they have not instituted an action for confirmation of title and their application for sales patent has not yet been granted. Additionally, they failed to implead the Republic of the Philippines, which is an indispensable party.

Respondents moved for reconsideration, but the same was denied.^[21]

Aggrieved, respondents elevated the matter to the Court of Appeals. On January 31, 2007, the Court of Appeals issued its Decision in favor of the respondents. According

to the Court of Appeals--

The issue ultimately boils down to the question of ownership of the lands adjoining Cutcut Creek particularly Road Lot No. 8 (hereinafter RL 8) and the accreted portion beside RL 8.

The evidentiary records of the instant case, shows that RL 8 containing an area of 291 square meters is owned by Guaranteed Homes, Inc. covered by TCT No. S-62176. The same RL 8 appears to have been donated by the Guaranteed Homes to the City Government of Parañaque on 22 March 1966 and which was accepted by the then Mayor FLORENCIO BERNABE on 5 April 1966. There is no evidence however, when RL 8 has been intended as a road lot.

On the other hand, the evidentiary records reveal that PEDRO VITALEZ possessed the accreted property since 1930 per his Affidavit dated 21 March 1966 for the purpose of declaring the said property for taxation purposes. The property then became the subject of Tax Declaration No. 20134 beginning the year 1967 and the real property taxes therefor had been paid for the years 1966, 1967, 1968, 1969, 1970, 1972, 1973, 1974, 1978, 1980, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004. Sometime in 1964 and 1971, construction permits were issued in favor of Appellant MARIO EBIO for the subject property. On 21 April 1987, PEDRO VITALEZ transferred his rights in the accreted property to MARIO EBIO and his successors-in-interest.

Applying [Article 457 of the Civil Code considering] the foregoing documentary evidence, it could be concluded that Guaranteed Homes is the owner of the accreted property considering its ownership of the adjoining RL 8 to which the accretion attached. However, this is without the application of the provisions of the Civil Code on acquisitive prescription which is likewise applicable in the instant case.

x x x x

The subject of acquisitive prescription in the instant case is the accreted portion which [was] **duly proven** by the Appellants. It is clear that since 1930, Appellants together with their predecessor-in-interest, PEDRO VITALEZ[,] have been in exclusive possession of the subject property and starting 1964 had introduced improvements thereon as evidenced by their construction permits. Thus, even by extraordinary acquisitive prescription[,] Appellants have acquired ownership of the property in question since 1930 even if the adjoining RL 8 was subsequently registered in the name of Guaranteed Homes. x x x.

x x x x

Further, it was only in 1978 that Guaranteed Homes was able to have RL 8 registered in its name, which is almost fifty years from the time PEDRO VITALEZ occupied the adjoining accreted property in 1930. x x x.

x x x x

We likewise note the continuous payment of real property taxes of Appellants which bolster their right over the subject property. x x x.

x x x x

In sum, We are fully convinced and so hold that the Appellants [have] amply proven their right over the property in question.

WHEREFORE, premises considered, the instant appeal is hereby **GRANTED**. The challenged Order of the court a quo is **REVERSED** and **SET ASIDE**.

SO ORDERED.^[22]

On June 8, 2007, the appellate court denied petitioners' motion for reconsideration. Hence, this petition raising the following assignment of errors:

- I. WHETHER OR NOT THE DECISION AND RESOLUTION OF THE HONORABLE COURT OF APPEALS THAT RESPONDENTS HAVE A RIGHT IN ESSE IS IN ACCORD WITH THE LAW AND ESTABLISHED JURISPRUDENCE[;]
- II. WHETHER OR NOT THE DECISION AND RESOLUTION OF THE HONORABLE COURT OF APPEALS THAT THE SUBJECT LOT IS AVAILABLE FOR ACQUISITIVE PRESCRIPTION IS IN ACCORD WITH THE LAW AND ESTABLISHED JURISPRUDENCE[;] AND
- III. WHETHER OR NOT THE STATE IS AN INDISPENSABLE PARTY TO THE COMPLAINT ... FILED BY RESPONDENTS IN THE LOWER COURT.^[23]

The issues may be narrowed down into two (2): procedurally, whether the State is an indispensable party to respondents' action for prohibitory injunction; and substantively, whether the character of respondents' possession and occupation of the subject property entitles them to avail of the relief of prohibitory injunction.

The petition is without merit.

An action for injunction is brought specifically to restrain or command the performance of an act.^[24] It is distinct from the ancillary remedy of preliminary injunction, which cannot exist except only as part or as an incident to an independent action or proceeding. Moreover, in an action for injunction, the auxiliary remedy of a preliminary prohibitory or mandatory injunction may issue.^[25]

In the case at bar, respondents filed an action for injunction to prevent the local government of Parañaque City from proceeding with the construction of an access road that will traverse through a parcel of land which they claim is owned by them