

SECOND DIVISION

[G.R. No. 167390, July 26, 2010]

**SPOUSES ADOLFO FERNANDEZ, SR., AND LOURDES FERNANDEZ,
PETITIONERS, VS. SPOUSES MARTINES CO AND ERLINDA CO,
RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This is a petition for review on *certiorari*^[1] of the Decision^[2] of the Court of Appeals dated November 30, 2004 in CA-G.R. SP No. 85994, and its Resolution^[3] dated March 10, 2005, denying petitioners' motion for reconsideration.

The Decision of the Court of Appeals reversed and set aside the Decision of the Regional Trial Court (RTC) of Dagupan City, Branch 44, and reinstated the Decision of the Municipal Trial Court (MTC) of Calasiao, Pangasinan, finding respondents entitled to possession of the property involved in this case, but deleting the award of moral and exemplary damages for lack of legal basis.

The facts are as follows:

The property involved in this case is Lot 978, Cad. 439-D, with an area of 1,209 square meters, located in Nalsian, Calasiao, Pangasinan.

Respondents' predecessor-in-interest, Emilio Torres, married to Pilar Torres, applied for, and was granted, a free patent over the subject property, described as Lot 978, Cad. 439-D, Calasiao Cadastre. The said free patent, issued on June 10, 1996 by President Fidel V. Ramos, was registered with the Register of Deeds for the Province of Pangasinan, and *Katibayan ng Orihinal naTitulo Blg.* P-35620^[4] covering the subject property was issued in the name of Emilio Torres. Petitioner Adolfo Fernandez filed an Affidavit of Adverse Claim with the Register of Deeds of Pangasinan and had the same annotated on Emilio Torres' title on July 16, 1996.^[5]

The adverse claim was eventually cancelled when Emilio Torres filed an Affidavit of Cancellation of Adverse Claim^[6] with the Register of Deeds of Pangasinan, alleging, among others, that adverse claimant Adolfo Fernandez failed to pursue his claim in court, and that he executed an Affidavit^[7] dated March 20, 1996, wherein he admitted that Emilio Torres is the actual owner in possession of the subject property. The Affidavit of petitioner Adolfo Fernandez reads:

I, ADOLFO FERNANDEZ, of legal age, married, Filipino citizen, and resident of Lasip, Calasiao, Pangasinan, after having been duly sworn to in accordance with law hereby depose and say:

That I know personally EMILIO L. TORRES, of legal age, married, Filipino citizen and resident of Lasip, Calasiao, Pangasinan as the legal and true owner of a parcel of land described as Lot No. 978, Cad. 439-D situated at Nalsian, Calasiao, Pangasinan;

That I am one and the same person who was listed as survey claimant over Lot No. 978, Cad. 439-D situated at Nalsian, Calasiao, Pangasinan; and that Rodolfo Fernandez and Adolfo Fernandez are one and the same person which refers to me;

That during the execution of the Cadastral Survey of Calasiao, Pangasinan, the surveyor who executed the survey made a mistake or an error in putting my name as survey claimant over Lot No. 978, Cad. 439-D, while in truth and in fact the actual owner of said lot is Emilio L. Torres who is in actual possession and cultivation of said land;

That I execute this Affidavit freely and voluntarily and have read and understood the contents hereof.^[8]

Thereafter, Emilio Torres executed an Affidavit of Request for Issuance of New Transfer Certificate of Title^[9] dated September 20, 1996 and filed the same before the Register of Deeds of Pangasinan. Acting favorably thereon, the Register of Deeds of Pangasinan cancelled *Katibayan ng Orihinal naTitulo Blg. P-35620* and issued Transfer Certificate of Title (TCT) No. 216709^[10] in the name of Emilio Torres. Emilio Torres declared the subject property for taxation.^[11]

On June 6, 1997, the spouses Emilio and Pilar Torres sold the subject property to respondents spouses Martines and Erlinda Co, as evidenced by a Deed of Absolute Sale.^[12] TCT No. T-216709 in the name of Emilio Torres was cancelled, and TCT No. T-236032^[13] was issued in the name of respondents spouses Martines and Erlinda Co. Respondents took actual physical possession of the property, and erected concrete posts and barbed wire fence enclosing the property.

On August 14, 1997, respondents obtained a loan from Solid Bank in the amount of P8,000,000.00, and mortgaged the subject property to secure the loan.^[14]

Subsequently, a portion of the property, denominated as Lot 978-B, was segregated and made part of the Judge Jose De Venecia, Sr. Highway covered by TCT No. T-236033 (Road Lot).^[15] The remaining portion, denominated as Lot 978-A, covered by TCT No. T-236032,^[16] now subject matter of the controversy, pertained to respondents.

On September 3, 2001, respondents' possession of the subject property was disturbed by petitioner Adolfo Fernandez, who destroyed the perimeter fence surrounding the property and started construction work therein.

In order to protect their interest, respondents filed a Complaint for quieting of title

and injunction with damages before the RTC of Dagupan City, but the complaint was dismissed for lack of jurisdiction.

On January 22, 2002, respondents filed a Complaint for forcible entry/ejectment before the MTC in Calasiao, Pangasinan (trial court).

In their Answer to the Complaint and, later, Position Paper, petitioners alleged that respondents had no cause of action against them as the subject property belonged to them. Petitioners claimed to have long been in actual possession of Lot No. 978 when the said lot, including Lot No. 661-A and Lot No. 661-B originally formed part of an unirrigated riceland with an area of 3,904 square meters, originally recorded as Cadastral Lot No. 661 under Tax Declaration No. 16357^[17] issued in the names of petitioners in 1973. Tax Declaration No. 16357 was cancelled and Tax Declaration No. 455^[18] was issued in 1980 by the Calasiao Municipal Assessor's Office. Subsequently, Tax Declaration No. 455 was cancelled and Tax Declaration No. 494^[19] was issued in 1982 in the names of petitioners.

Petitioners further alleged that when Cadastral Lot No. 661 was traversed by the Judge Jose de Venecia, Sr. Highway, the said lot was subdivided into Cadastral Lot No. 661-A, Cadastral Lot 661-B, and Cadastral Lot No. 978. Tax Declaration No. 13162,^[20] covering Cadastral Lot No. 661-A, was issued in the name of the Republic of the Philippines on December 12, 1995. Tax Declaration No. 13163, covering Lot No. 661-B,^[21] was allegedly issued in the name of petitioners. Tax Declaration No. 13161,^[22] covering Lot No. 978, was issued in the name of petitioners.

Petitioners averred that sometime in 1996, they learned that Lot No. 978, Cad. 439-D was covered by Original Certificate of Title (OCT) No. P-35620 by virtue of the issuance of a Free Patent in the name of Emilio Torres. Hence, petitioners executed an Affidavit of Adverse Claim, which adverse claim was annotated on the original title of Emilio Torres.

Petitioners claimed that they had the subject lot fenced, and the lot was leased on January 4, 2000 to Architect Andres L. Gutierrez, Jr., who constructed the necessary building and improvements thereon for the operation of a car wash. They asserted that it was not true that respondents fenced the lot with concrete posts and perimeter barbed wire, because it was already fenced by petitioners.

Petitioners alleged that respondents' reliance on TCT No. 216709, which was fraudulently issued in the name of Emilio Torres, who is respondents' predecessor-in-interest, cannot be maintained as the subject property is private land belonging to petitioners; hence, it cannot be the subject of a free patent.

Respondents' prayer for the issuance of a Writ of Preliminary Injunction was denied by the trial court for lack of merit.

On March 31, 2003, the trial court rendered a Decision^[23] in favor of respondents, the dispositive portion of which reads:

WHEREFORE, premises duly considered, judgment is hereby rendered, ordering the defendants and any and all persons acting for and ^[in] their behalf to vacate and surrender possession of Lot 978, Cad. 439-D, Calasiao Cadastre, to and in favor of the plaintiffs. The defendants are ordered further to pay to the plaintiffs, the following:

1. The amount of P12,000.00 per month as the reasonable rental for the use and occupation of the premises commencing from September 13, 2001 (first judicial demand) until the actual physical possession of the premises shall have been surrendered by the defendants to the plaintiffs;
2. P100,000.00 as moral damages;
3. P50,000.00 as exemplary damages;
4. P30,000.00 as attorney's fees; and other expenses of litigation, and
5. The costs of suit.^[24]

The trial court found that the evidence adduced by respondents showed that they and their predecessors-in-interest were the ones in actual, continuous physical possession of the subject lot for thirty (30) years being the registered owners thereof.

Moreover, the trial court pointed out that the adverse claim of petitioners, which was annotated on the original title of Emilio Torres, respondents' predecessor-in-interest, was cancelled by reason of the Affidavit dated March 20, 1996, wherein petitioner Adolfo Fernandez recognized Emilio Torres as the legal and true owner in actual possession and cultivation of the subject property.

Further, the trial court held that petitioners' allegation that Lot 978 is part of Lot 661, which they owned, is belied by the approved cadastral survey of Calasiao, Pangasinan, showing that Lot 978 and Lot 661 are two distinct lots. According to the trial court, the claim of petitioners that they are in prior possession of Lot 978 is based on the false assumption that Lot 978 is part of Lot 661. While petitioners are the owners and in possession of Lot 661, respondents are the owners and in possession of Lot 978. In his Affidavit dated March 20, 1996, petitioner Adolfo Fernandez recognized the possession and ownership of the subject lot by Emilio Torres, respondents' predecessor-in-interest. Hence, petitioners now cannot claim otherwise; they are bound by their own admission.

The trial court also held that respondents cannot just be unlawfully deprived of peaceful possession of their property by petitioners under Article 536 of the Civil Code of the Philippines.

Petitioners appealed the trial court's decision to the RTC of Dagupan City, Branch 44.

In a Decision^[25] dated January 12, 2004, the RTC reversed the decision of the trial court. The dispositive portion of the decision reads:

WHEREFORE, the appeal is given due course and the Decision appealed from is REVERSED. In this connection, the ejectment case is DISMISSED.

The plaintiffs-appellees are ordered to pay P100,000.00 to the defendants-appellants by way of moral damages, and P25,000.00 by way of exemplary damages. The plaintiffs-appellees are also ordered to pay the amount of P40,000.00 for the services of counsel and P1,000.00 per appearance.^[26]

The RTC stated that although a Deed of Absolute Sale was executed by the spouses Emilio and Pilar Torres in favor of respondents, the title of respondents is void on two grounds: (1) the property is a private unirrigated riceland owned by petitioners; hence, it cannot be the subject of a free patent; and (2) even assuming for the sake of argument that the property could be the subject of a free patent, the same was disposed within the prohibitory period.

Respondents appealed the RTC's Decision to the Court of Appeals via a petition for review.

On November 30, 2004, the Court of Appeals rendered a Decision, the dispositive portion of which reads:

WHEREFORE, the present petition is GRANTED and the Decision dated January 12, 2004 rendered by the Regional Trial Court in Dagupan City is REVERSED and SET ASIDE. The Decision dated March 31, 2003 of the Municipal Trial Court is reinstated, with the MODIFICATION that the award of moral and exemplary damages is hereby deleted for lack of legal basis.^[27]

The Court of Appeals held that the Affidavit of petitioner Adolfo Fernandez, dated March 20, 1996, wherein he admitted that respondents' predecessor-in-interest, Emilio L. Torres, was in actual possession and cultivation of the subject property and was the owner thereof, belied petitioners' claim that they were the owners and possessors of the subject property.

Petitioners' motion for reconsideration was denied in a Resolution dated March 10, 2005.

Hence, petitioners filed this petition, raising the following issues:

I.

THE COURT OF APPEALS GRIEVOUSLY ERRED ON A QUESTION OF LAW WHEN IT RULED THAT IT IS UNNECESSARY TO INQUIRE ON THE VALIDITY OF TITLE OF RESPONDENTS DESPITE THE FACT THAT THE CLAIM OF POSSESSION BY THE RESPONDENTS IS ANCHORED ON THEIR ALLEGED OWNERSHIP OF THE SUBJECT PARCEL OF LAND.

II.

THE COURT OF APPEALS GRIEVOUSLY ERRED ON A QUESTION OF LAW