

## THIRD DIVISION

[ G.R. No. 189859, October 18, 2010 ]

**PIO MODESTO AND CIRILA RIVERA-MODESTO, PETITIONERS,  
VS. CARLOS URBINA, SUBSTITUTED BY THE HEIRS OF OLYMPIA  
MIGUEL VDA. DE URBINA (SURVIVING SPOUSE) AND CHILDREN,  
NAMELY: ESCOLASTICA M. URBINA, ET AL., RESPONDENTS.**

### R E S O L U T I O N

**BRION, J.:**

We resolve the motion for reconsideration filed by petitioners Pio Modesto and Cirila Rivera Modesto (*Modestos* or *petitioners*) dated March 1, 2010,<sup>[1]</sup> seeking to reverse our January 11, 2010 Resolution, which denied their petition for review on *certiorari* for lack of merit.<sup>[2]</sup>

### FACTUAL ANTECEDENTS

***Civil Case No. 53483***

This case stems from a complaint for recovery of possession filed by respondent Carlos Urbina (*Urbina*) against the petitioners with the Regional Trial Court of Pasig (*RTC*), docketed as Civil Case No. 53483.

In his complaint, Urbina alleged that he is the owner of a parcel of land situated at Lower Bicutan, Taguig, designated as Lot 56, PLS 272. According to Urbina, the Modestos, through stealth, scheme, and machination, were able to occupy a portion of this property, designated as Lot 356, PLS 272. Thereafter, the Modestos negotiated with Urbina for the sale of this lot. However, before the parties could finalize the sale, the Modestos allegedly cancelled the transaction and began claiming ownership over the lot. Urbina made several demands on the Modestos to vacate the property, the last of which was through a demand letter sent on July 22, 1983. When the Modestos still refused to vacate, Urbina filed the present action against them.

In their answer, the Modestos claimed that Urbina could not be the lawful owner of the property because it was still government property, being a part of the Fort Bonifacio Military Reservation.

After the resolution of various procedural issues,<sup>[3]</sup> the RTC of Pasig City rendered a decision in favor of Urbina on April 24, 2000, ordering the petitioners to immediately vacate and surrender the lot to Urbina and to pay him P200.00 monthly as compensation for the use of the property from July 22, 1983 until they finally vacate.<sup>[4]</sup>

The RTC noted that the petitioners recognized Urbina's possessory rights over the

property when they entered into a negotiated contract of sale with him for the property. Thus, the Modestos were estopped from subsequently assailing or disclaiming Urbina's possessory rights over this lot.

The petitioners appealed this decision with the Court of Appeals (CA).

### **LMB Conflict No. 110**

Urbina's claim of ownership over Lot 56 is based primarily on his Miscellaneous Sales Application No. (III-1) 460 (*Miscellaneous Sales Application*), which he filed on July 21, 1966.<sup>[5]</sup>

While Urbina's *accion publiciana* complaint was pending before the RTC, the Modestos filed a letter-protest against Urbina's Miscellaneous Sales Application with the Land Management Bureau (LMB) on January 29, 1993, claiming that: (a) they are the owners of Lot 356, PLS 272;<sup>[6]</sup> (b) they have been occupying this lot for almost 33 years; and (c) their house is constructed on this lot.

The Modestos also alleged that they filed an unnumbered sales application for Lot 356 with the LMB, based on their actual occupancy of the property, pursuant to Proclamations 2476 and 172, on February 10, 1993.

**On January 31, 2008, the LMB denied with finality the Modestos' unnumbered sales application/protest against Urbina's application, in turn upholding Urbina's Miscellaneous Sales Application.**

Refusing to give up, the Modestos filed a motion for reconsideration. They also filed an Insular Government Patent Sales Application over Lot 356 on January 27, 2009.<sup>[7]</sup>

### **THE COURT OF APPEALS DECISION**

The CA affirmed *in toto* the RTC decision in Civil Case No. 53483 on January 26, 2009.<sup>[8]</sup> The CA agreed with the RTC's observation that the Modestos were estopped from challenging Urbina's right to possess the property after they acknowledged this right when they entered into the negotiated contract of sale. The CA also gave credence to the January 31, 2008 LMB order in LMB Conflict No. 110, ruling that this LMB order bolstered Urbina's possessory rights over the subject property.

At the time the CA decision was issued, respondent Carlos Urbina had already passed away and had been substituted by his surviving heirs, his spouse, Olympia Miguel Vda. de Urbina, and his children, Escolastica, Cecilia, Efren, Manolito, and Purificacion, all surnamed Urbina (*respondents*).

### **THE PETITION**

The petitioners subsequently filed a petition for review on *certiorari* with this Court, asserting that the CA committed reversible error in finding that Urbina had possessory rights over the property. **The Modestos mainly argued that at the time Urbina filed his MSA and acquired tax declarations over the subject**

**property, the property was still government property, being part of a military reservation.** The property was thus not alienable and disposable, and could not legally be possessed by a private individual. Accordingly, Urbina could not use the MSA and the tax declarations as proof of a better right to possess the property as against the Modestos.

The Modestos further claimed that the CA committed grievous error when it held that they were estopped from challenging Urbina's right to possess the subject property. While they admitted to negotiating with Urbina for the sale of the property, they alleged that they did so based on Urbina's misrepresentation that he had a legal claim of ownership over the property. **Since their offer to buy the property from Urbina was based on his false assertions, the principle of estoppel cannot apply.**

Additionally, the Modestos alleged that since the property is covered by Proclamation No. 172 and Memorandum Order No. 119, the lower courts should have given due consideration to the primary and exclusive jurisdiction of the Director of Lands (of the Bureau of Lands, now Director of the Land Management Bureau) over these parcels of public lands.

Lastly, the Modestos questioned Urbina's qualifications to possess the property, claiming that Urbina was not in actual, adverse, public and continuous possession of the property. According to the Modestos, from the time that Urbina filed his Miscellaneous Sales Application in 1966 until the present, Urbina was a resident of Makati City, and did not actually occupy the property.

In our Order dated January 11, 2010, we denied the Modestos' petition for failing to sufficiently show any reversible error in the assailed CA decision.

### **THE MOTION FOR RECONSIDERATION**

On March 3, 2010, the Modestos filed their motion for reconsideration, raising essentially the same grounds already brought up in their petition for review on *certiorari*.

Notably, the Modestos attached LMB Order dated February 19, 2010 (*February 19, 2010 LMB Order*), which resolved their motion for reconsideration of the LMB's January 31, 2008 order in LMB Conflict No. 110. This Order held that the subject property had indeed been a part of the Fort Bonifacio Military Reservation, and only became alienable and disposable after October 16, 1987. Thus, Urbina's Miscellaneous Sales Application over the property was improper and could not be the source of possessory rights over the property.

The order also noted that Urbina failed to comply with the requirements of an applicant for ownership of the property, as set forth in Memorandum No. 119, the implementing guidelines of Proclamation No. 172.

Responding to this motion, the respondents, in their Comment dated May 31, 2010, reiterated that the petitioners are estopped from assailing Urbina's possessory rights over the property after they entered into a negotiated sales contract with him over the subject property. They also accused the Modestos of employing dilatory tactics

in filing the present motion.

## **THE RULING**

**We GRANT the motion for reconsideration.**

### ***Procedural issue***

An *accion publiciana* is an ordinary civil proceeding to determine the better right of possession of realty independently of title.<sup>[9]</sup> *Accion publiciana* is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and can no longer be maintained under Rule 70 of the Rules of Court. The objective of a plaintiff in *accion publiciana* is to recover possession only, not ownership.<sup>[10]</sup>

In asking us to determine which of the parties has a better right to possess the property, we are asked to resolve a factual issue, involving as it does the weighing and evaluation of the evidence presented by the parties in the courts below. Generally, such an exercise is not appropriate in a petition for review on *certiorari* under Rule 45 of the Rules of Court, which seeks to resolve only questions of law. Moreover, the factual findings of the CA, when supported by substantial evidence, are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) **When the judgment is based on a misapprehension of facts;**
- (5) When the findings of fact are conflicting;
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) When the findings are contrary to those of the trial court;
- (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and
- (10) When the findings of fact of the Court of Appeals are premised on

the supposed absence of evidence and contradicted by the evidence on record.<sup>[11]</sup>

Since the CA affirmed the factual findings of the RTC, we would normally be precluded from re-examining the factual circumstances of this case. However, it appears that the RTC and the CA, in concluding that Urbina has the right to lawfully eject the Modestos from the lot in question, have greatly misapprehended the facts of this case.

In finding for Urbina, both the RTC and the CA mainly relied on the principle of estoppel, and focused on the Modestos' admission that they entered into a negotiated contract of sale with Urbina. In the process, they injudiciously ignored the other material issues that the Modestos raised regarding the validity of Urbina's possession of the property, specifically the Modestos' allegation that at the time Urbina began staking his claim over the property, it was still government land.

This error on the part of the lower courts is made more evident when we take into account an intervening event which significantly affects the resolution of this case - the issuance by the LMB of its order dated February 19, 2010, which expressly stated that Urbina did not acquire any possessory rights over the lot. For these reasons, we find the review of the evidence on record proper.

### ***Jurisdiction of the Court***

The authority of the courts to resolve and settle questions relating to the possession of property has long been settled.<sup>[12]</sup> This authority continues, even when the land in question is public land. As we explained in *Solis v. Intermediate Appellate Court*:  
<sup>[13]</sup>

We hold that **the power and authority given to the Director of Lands to alienate and dispose of public lands does not divest the regular courts of their jurisdiction over possessory actions instituted by occupants or applicants against others to protect their respective possessions and occupations.** While the jurisdiction of the Bureau of Lands [now the Land Management Bureau] is confined to the determination of the respective rights of rival claimants to public lands or to cases which involve disposition of public lands, the power to determine who has the actual, physical possession or occupation or the better right of possession over public lands remains with the courts.

The rationale is evident. The Bureau of Lands does not have the wherewithal to police public lands. Neither does it have the means to prevent disorders or breaches of peace among the occupants. Its power is clearly limited to disposition and alienation and while it may decide disputes over possession, this is but in aid of making the proper awards. **The ultimate power to resolve conflicts of possession is recognized to be within the legal competence of the civil courts and its purpose is to extend protection to the actual possessors and occupants with a view to quell social unrest.**