

## THIRD DIVISION

[ G.R. No. 160280, March 13, 2009 ]

**SOFIA ANIOSA SALANDANAN, PETITIONER, VS. SPOUSES MA. ISABEL AND BAYANI MENDEZ, RESPONDENTS.\***

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

This refers to the Petition for Review on *Certiorari* of the June 27, 2003 Decision<sup>[1]</sup> of the Court of Appeals (CA) and its September 3, 2003 Resolution<sup>[2]</sup> in CA-G.R. SP No. 76336 denying the petition for clarification and intervention filed by Sofia Aniosa Salandanan (petitioner) and affirming *in toto* the March 6, 2003 Decision of the Regional Trial Court (RTC) of Manila, Branch 30 in Civil Case No. 02-104406 which affirmed the August 9, 2002 Decision of the Metropolitan Trial Court (MeTC) of Manila, Branch 15 in Civil Case No. 172530 ordering Delfin Fernandez<sup>[3]</sup> and Carmen Fernandez (Spouses Fernandez) and all persons claiming rights under them to vacate and surrender possession of a house and lot located at 1881 Antipolo St., corner Vision St., Sta. Cruz, Manila (subject lot) to Spouses Bayani Mendez and Ma. Isabel S. Mendez (respondents) and to pay the latter monthly rental of P5,000.00 from January 29, 2002 until they vacate the property and P15,000.00 as attorney's fees.

The case stemmed from a complaint for ejectment instituted by respondents against Spouses Fernandez before the MeTC on April 18, 2002.

In their Complaint,<sup>[4]</sup> respondents alleged that they are the owners of the subject property as evidenced by Transfer Certificate of Title No. 246767 of the Registry of Deeds of Manila; that they became the owners thereof by virtue of a deed of donation; that Spouses Fernandez and their families were occupying the subject property for free through the generosity of respondent Isabel's father; that a letter of demand to vacate the subject property was sent to Spouses Fernandez but they refused to vacate the same; that respondents brought the matter to the *Barangay Lupon* for possible settlement but the same failed.

In their Answer,<sup>[5]</sup> Spouses Fernandez denied the allegations of the complaint and averred that Spouses Pablo and Sofia Salandanan (Spouses Salandanan) are the registered owners of the subject property and the improvements therein; that respondent Isabel is not a daughter of Spouses Salandanan; that Delfin Fernandez (Delfin) is the nearest of kin of Pablo Salandanan being the nephew of the latter; that Delfin has continuously occupied the said property since time immemorial with the permission of Spouses Salandanan; that they did not receive any notice to vacate the subject property either from respondents or their counsel.

Further, Spouses Fernandez claimed that respondents were able to transfer the

subject property to their name through fraud; that sometime in November 1999, respondents went to the house of Spouses Salandanan in Dasmariñas, Cavite and asked the latter to sign a special power of attorney; that the supposed special power of attorney was in fact a deed of donation wherein Spouses Salandanan was alleged to have donated in favor of respondents the subject property; that said deed of donation was simulated and fictitious and that by virtue of the alleged deed of donation, respondent Isabel was able to transfer the title of the subject property in her name; that in fact, the subject property is the subject of a separate case filed on July 31, 2001 before the RTC of Manila docketed as Civil Case No. 01101487<sup>[6]</sup> for annulment, revocation and reconveyance of title. By way of counterclaim, Spouses Fernandez prayed for moral damages and attorney's fees.

On August 9, 2002 the MeTC rendered its decision in favor of respondents and against Spouses Fernandez, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the latter and all persons claiming rights under them to peacefully vacate the premises and surrender possession thereof to the plaintiffs and for the defendants to pay plaintiffs: 1) P5,000.00 a month beginning January 29, 2002 (when the demand letter was received by defendants by registered mail) until they finally vacate the premises and 2) the amount of P15,000.00 as and for attorney's fees.

The counterclaim of the defendants is dismissed for lack of merit.

SO ORDERED.<sup>[7]</sup>

Dissatisfied, Spouses Fernandez appealed to the RTC. Respondents then filed a Motion for Execution Pending Appeal with the RTC. On December 9, 2002, the RTC issued an Order directing the issuance of a writ of execution to place respondents in possession of the disputed property on the ground that Spouses Fernandez failed to periodically deposit the monthly rentals as they fell due. The Writ of Execution was issued on January 10, 2003. The Spouses Fernandez moved for reconsideration of the Order for issuance of the writ of execution, but the same was denied.

Thus, on February 20, 2003, the sheriff went to the subject premises to implement the writ of execution but found the place padlocked. The sheriff also found the petitioner, an old woman, all alone inside the house. Taking pity on the old woman, the sheriff was unable to implement the writ. On the same day, respondents filed an Urgent Motion to Break Open, alleging that Spouses Fernandez fetched petitioner earlier that day from her residence in Dasmariñas, Cavite and purposely placed her inside the subject premises so the old woman could plead for mercy from the executing sheriff.

On March 6, 2003, the RTC promulgated its Decision affirming the decision of the MeTC of Manila,<sup>[8]</sup> and on April 8, 2003, the RTC also issued an Order authorizing the sheriff "to employ the necessary force to enable him to enter the subject premises and place the plaintiffs-appellees in actual possession thereof."<sup>[9]</sup>

Meanwhile, on April 4, 2003, Spouses Fernandez filed before the CA a petition for review with prayer for a temporary restraining order seeking to stay the immediate

execution pending appeal.<sup>[10]</sup> In a Resolution dated April 15, 2003, the CA granted the prayer for a Temporary Restraining Order.

On June 27, 2003, the CA rendered its Decision affirming *in toto* the decision of the RTC and ordered Spouses Fernandez and all persons claiming rights under them including petitioner to vacate the premises, ruling thus:

Verily, the only issue to be resolved in the present ejectment case is who between petitioners [Spouses Fernandez] and respondents has the better right to possess the disputed premises. The issue as to who between Sofia Aniosa Salandanan and respondents is the real owner of subject premises could be properly threshed out in a separate proceedings, which in this case is already pending resolution in another court.

Interestingly, nowhere in any pleadings of petitioners submitted below could We find any allegations to the effect that their possession of the disputed premises sprung from their claim of ownership over the same nor, at the very least, that they are in possession of any document that would support their entitlement to enjoy the disputed premises.

As between respondents' Torrens Title to the premises juxtaposed that of petitioners' barren claim of ownership and absence of any document showing that they are entitled to possess the same, the choice is not difficult. Simply put, petitioners plainly have no basis to insist that they have a better right to possess the premises over respondents who have a Torrens Title over the same. Hence, the MTC, as well as the RTC, correctly ordered petitioners to vacate the premises since respondents have a better right to possess the same by virtue of the latter's Torrens Title.<sup>[11]</sup>

The dispositive portion of the CA Decision reads as follows:

WHEREFORE, the instant appeal is DISMISSED for lack of merit. The assailed Decision, dated 06 March 2003, of Hon. Judge Lucia Peña Purugganan of the Regional Trial Court of Manila, Branch 50, affirming on appeal the Decision of the Metropolitan Trial Court of Manila (MTC for brevity), Branch 15, is hereby AFFIRMED in toto. Accordingly, the Temporary Restraining Order is hereby LIFTED. **As a legal consequence, petitioners and all persons claiming rights under them, including Sofia Aniosa Salandanan, are hereby ORDERED to vacate the premises immediately upon receipt hereof. Costs against petitioners.**

SO ORDERED.<sup>[12]</sup> (Emphasis supplied)

On July 29, 2003, Spouses Fernandez filed their motion for reconsideration.<sup>[13]</sup>

On even date, Sofia Salandanan (petitioner) filed a Motion for Clarification and Intervention<sup>[14]</sup> and attached a Motion for Reconsideration.<sup>[15]</sup> In her motion for clarification and intervention, she alleged that she and her deceased spouse are the real owners of the subject property; that she was not a party to the case for ejectment and did not receive any notice therefrom; and that by virtue of the said

decision, she was about to be evicted from her property without having participated in the entire process of the ejectment proceeding.

Petitioner further claims that sometime in 1999, respondents went to their house and showed certain papers purportedly copies of a special power of attorney but which turned out to be a deed of donation involving the subject property; that by virtue of the said donation, respondents were able to register the subject properties in their name and were issued Transfer Certificate of Title No. 246767; that on July 31, 2001, Spouses Salandanan with the assistance of Delfin, filed a civil case before the RTC of Manila for Revocation/Annulment of the said title and Reconveyance; and that consequently, petitioner was forced to intervene in order to protect her interests over the subject property. Petitioner prayed for (1) clarification of the CA's decision asking whether the said decision applies to her as a relative of Spouses Fernandez claiming right under them or as possessor of the subject property in her right as owner of the subject property; (2) that she be allowed to intervene in the appeal; and (3) that the attached motion for reconsideration be admitted.

In a Resolution dated September 3, 2003, the CA denied the motion for reconsideration filed by Spouses Fernandez and petitioner's motion for clarification and intervention, for lack of merit,<sup>[16]</sup> thus:

We have carefully perused petitioner's Motion and find the arguments raised therein a mere rehash, if not a repetition, of the arguments raised in their petition, which have already been thoroughly discussed and passed upon in our Decision.

Anent the movant Sofia Salandanan's Motion for Clarification and Intervention, We hereby deny the same on the ground that it is belatedly filed by virtue of the rendition of Our Decision on June 27, 2003.

Section 2, Rule 19 of 1997 Rules of Civil Procedure expressly provides:

Section 2. *Time to Intervene.* - The motion to intervene may be filed at any time before rendition of judgment by the trial court. x x x

Moreover, it is undisputed that on 31 July 2001, movant Sofia Salandanan represented by petitioner has already instituted a Civil Case for Revocation/ Annulment of T.C.T. 246767 and Reconveyance before the Regional Trial Court of Manila, Branch 50 and docketed as Civil Case No. 01101487. As such We find movant's motion to be wanting of merit as her rights are already fully protected in said separate proceeding.

WHEREFORE, the Motion for Reconsideration and Motion for Clarification and Intervention are hereby DENIED for lack of merit.

SO ORDERED.<sup>[17]</sup>

Hence, herein petition anchored on the following assignment of errors:

1. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT INCLUDED PETITIONER IN ITS ADVERSE JUDGMENT IN

VIOLATION OF THE LATTER'S CONSTITUTIONAL RIGHT TO DUE PROCESS DESPITE THE FACT THAT PETITIONER WAS NOT PRIVY TO THE INSTANT CASE AND DOES NOT DERIVE HER RIGHT TO STAY IN THE CONTESTED PROPERTY FROM THE SPOUSES DELFIN AND CARMEN FERNANDEZ.

2. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED THE MOTION FOR INTERVENTION BY PETITIONER DESPITE THE FACT IT WAS ONLY BY VIRTUE OF ITS DECISION DATED JUNE 27, 2003 THAT PETITIONER WAS INCLUDED IN THE EJECTMENT PROCEEDINGS, AND THE EARLIEST OPPURTUNE TIME WHEN PETITIONER COULD HAVE INTERVENED WAS AFTER THE COURT OF APPEALS RULED AGAINST HER.
3. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DID NOT TAKE INTO ACCOUNT THE ISSUE OF OWNERSHIP IN RESOLVING THE ISSUE OF WHO HAS BETTER POSSESSION.
4. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DID NOT SUSPEND THE CASE DESPITE THE EQUITABLE CIRCUMSTANCES PRESENT IN THE CASE AT BAR IN THE LIGHT OF THE AMAGAN VS. MARAMAG CASE.<sup>[18]</sup>

Petitioner contends that the CA committed grave abuse of discretion when it included petitioner in its decision despite the fact that she is not a party in the ejectment case, thus, violating her right to due process; and considering that the court did not acquire jurisdiction over her person, she cannot be bound by the Decision of the CA.

Petitioner also asserts that the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied petitioner's motion for clarification and intervention. According to her, she was constrained to file a motion for clarification and intervention because the CA included her in its decision in spite of the fact that she was not impleaded as a party to the unlawful detainer case.

Petitioner ascribes grave abuse of discretion when the CA failed to resolve the issue of ownership in order to determine the party who has the better right to possess the subject property. She asserts that the CA should have suspended the unlawful detainer case since the ownership of the subject property is in issue.

Finally, petitioner maintains that she is the owner of the property by virtue of Transfer Certificate of Title No. 9937 issued on October 2, 1947 by the Register of Deeds of Manila. Hence, as the owner of the subject property, she has all the right to use, the right to allow others to use and the right to exclude others from using the same. Petitioner further claims that respondents were able to transfer the title of the subject property in their name through manipulation wherein respondents asked her and her deceased husband to sign a special power of attorney but later turned out to be a deed of donation. As a matter of fact, upon learning of the said