

SECOND DIVISION

[G.R. No. 150887, August 14, 2009]

**FRANCISCO MADRID AND EDGARDO BERNARDO, PETITIONERS,
VS. SPOUSES BONIFACIO MAPOY AND FELICIDAD MARTINEZ,
RESPONDENTS.**

D E C I S I O N

BRION, J.:

Before us is the Petition for Review on *Certiorari*^[1] filed by petitioners Francisco Madrid and Edgardo Bernardo (*petitioners-defendants*) to reverse and set aside the Decision^[2] dated July 16, 2001 and Resolution^[3] dated November 19, 2001 of the Former Second Division of the Court of Appeals (CA) in CA-G.R. CV No. 47691 entitled "*Spouses Bonifacio Mapoy and Felicidad Martinez v. Edgardo Bernardo and Francisco Madrid.*"

FACTUAL BACKGROUND

The facts of the case, based on the records, are summarized below.

The spouses Bonifacio and Felicidad Mapoy (*respondents-plaintiffs*) are the absolute owners of two parcels of land (*the properties*) known as Lot Nos. 79 and 80 of Block No. 27 of the Rizal Park Subdivision, located at No. 1400 Craig Street corner Maria Clara Street, Sampaloc, Manila, under Transfer Certificate of Title (TCT) Nos. 130064 and 130065 of the Registry of Deeds of Manila. The *properties* have a combined area of two-hundred seventy (270) square meters.

On April 4, 1988, the respondents-plaintiffs sought to recover possession of the properties through an *accion publiciana* filed with the Regional Trial Court (RTC) of Manila^[4] against Gregorio Miranda and his family (*Mirandas*) and two other unnamed defendants. After the pre-trial conference, the unnamed defendants were identified as the present petitioners and summons were duly served on them. These defendants are referred to in this Decision as the *petitioners-defendants*. The *Mirandas* are no longer parties to the present case; they did not appeal the lower court decision to the CA.

The respondents-plaintiffs alleged that they acquired the properties from the spouses Procopio and Encarnacion Castelo under a Deed of Absolute Sale dated June 20, 1978. They merely tolerated the petitioners-defendants' continued occupancy and possession until their possession became illegal when demands to vacate the properties were made. Despite the demands, the petitioners-defendants continued to occupy and unlawfully withhold possession of the properties from the respondents-plaintiffs, to their damage and prejudice. Efforts to amicably settle the case proved futile, leaving the respondents-plaintiffs no recourse but to file a

complaint for ejectment which the lower court dismissed because the respondents-plaintiffs should have filed an *accion publiciana*. Thus, they filed their complaint for *accion publiciana*, praying for recovery of possession of the properties and the payment of P1,000.00 as monthly rental for the use of the properties from January 1987 until the petitioners-defendants vacate the properties, plus P50,000.00 as moral and exemplary damages, and P30,000.00 as attorney's fees.

The Mirandas countered that Gregorio Miranda owned the properties by virtue of an oral sale made in his favor by the original owner, Vivencio Antonio (*Antonio*). They claimed that in 1948, Gregorio Miranda was Antonio's carpenter, and they had a verbal contract for Miranda to stay in, develop, fix and guard the properties; in 1972, Antonio gave the properties to Gregorio Miranda in consideration of his more than twenty (20) years of loyal service.

Petitioner-defendant Bernardo also asserted ownership over the portion he occupies based on an oral sale to him by Antonio. He alleged that he became a ward of Gregorio Miranda in 1965 when he was 10 years old and helped in the development of the properties; he helped construct a bodega and a house within the properties. He and Antonio met in 1975, and Antonio promised that the bodega would be given to him in gratitude for his work.

Petitioner-defendant Madrid, for his part, claimed that he started occupying a portion of the properties in 1974, and constructed a house on this portion in 1989 with the permission of Bernardo, the son of Gregorio Miranda.

On the basis of the length of their claimed occupation of the properties, the petitioners-defendants likewise invoked Section 6 of Presidential Decree No. 1517 (*PD 1517*), also known as the Urban Land Reform Law, which provides that legitimate tenants of 10 year or more, who have built their homes on these lands and who have continuously resided thereon for the past ten years, shall not be dispossessed of their occupied lands and shall be allowed the right of first refusal to purchase these lands within a reasonable time and at reasonable prices.

THE RTC RULING

On July 21, 1994, the RTC-Manila, Branch 3, rendered its decision,^[5] the dispositive portion of which states:

WHEREFORE, judgment is rendered, ordering the defendants and all persons claiming rights thereto to vacate the premises located at the corner of Ma. Clara and Craig Streets, Sampaloc, Manila, evidenced by TCT No. 130064 and 130065 and restore the same to the plaintiffs. The defendants are hereby ordered to pay plaintiff the sum of P10,000.00 as attorney's fees and the sum of P1,000.00 as reasonable rental for the use and occupation of the premises beginning from the filing of this complaint until they vacated the premises.

SO ORDERED.^[6]

The RTC upheld the respondents-plaintiffs' right of possession as registered owners of the properties. It found no merit in the petitioners-defendants' claims of ownership *via* an oral sale given the absence of any public instrument or at least a note or memorandum supporting their claims. The RTC also found the petitioners-defendants' invocation of PD 1517 futile, since its Section 6 refers to a legitimate tenant who has legally occupied the lands by contract; the petitioners-defendants are mere squatters.

The petitioners-defendants elevated the RTC decision to the CA *via* an ordinary appeal under Rule 41 of the Rules of Court. The Mirandas did not join them, and thus failed to file a timely appeal. The petitioners-defendants objected to the RTC's ruling that the sale or promise of sale should appear in a public instrument, or at least in a note or memorandum, to be binding and enforceable. They argued that the RTC failed to consider the respondents-plaintiffs' bad faith in acquiring the properties since they knew of the defects in the title of the owner. They further argued that the CA should have noted Gregorio Miranda's occupancy since 1948, Bernardo's since 1966 and Madrid's since 1973. The petitioners-defendants further submitted that their continuous residence for more than ten (10) years entitled them to the rights and privileges granted by PD 1517. They also argued that the RTC should not have applied the pre-trial order to them, since they had not then been served with summons and were not present during the pre-trial.

THE CA RULING

The CA dismissed the appeal in its decision^[7] of July 16, 2001, affirming as a consequence the RTC decision of July 21, 1994. The CA held that the certificate of title in the name of the respondents-plaintiffs serves as evidence of an indefeasible and incontrovertible title to the properties. The CA found that the petitioners-defendants never submitted any proof of ownership. Also, their reliance on their alleged continuous occupation is misplaced since petitioner-defendant Bernardo's occupation in the concept of owner started only in 1975 when Antonio allegedly gave him a portion of the properties as a gift, while petitioner-defendant Madrid's occupation could not have been in the concept of an owner, as he recognized Gregorio Miranda as the owner and paid him rents. The CA noted that the petitioners-defendants are not covered by PD 1517 because the law does not apply to occupants whose possession is by the owner's mere tolerance. The CA also observed that the RTC did not err in applying the pre-trial order to the petitioners-defendants because they derive the right of possession from the principal defendants, the Mirandas, who were duly represented at the pre-trial; they waived their right to pre-trial by failing to move that one be held.

The petitioners-defendants moved^[8] but failed^[9] to secure a reconsideration of the CA decision; hence, they came to us through the present petition.

THE PETITION and THE PARTIES' POSITIONS

The petitioners-defendants essentially reiterate the issues they raised before the CA, *i.e.*, that the ruling court failed to consider: (1) the respondents-plaintiffs' bad faith

in the acquisition of the properties; (2) the occupancy of Gregorio Miranda since 1948, Bernardo's since 1966, and Madrid's since 1973; and, (3) petitioners-defendants' continuous residence for more than ten (10) years entitling them to the rights and privileges granted by PD 1517. They also contend that the principle of indefeasibility of the certificate of title should not apply in this case because fraud attended the respondents-plaintiffs' acquisition of title. They again point out that the pre-trial order should not have been applied to them since they were not present during the pre-trial conference.

The respondents-plaintiffs counter-argue that the issues raised by the petitioners-defendants are essentially factual in nature and all have been well-considered and adequately refuted in the challenged CA decision.

OUR RULING

We resolve to deny the petition for lack of merit.

a. Accion Publiciana and Ownership

Accion publiciana, also known as *accion plenaria de posesion*,^[10] is an ordinary civil proceeding to determine the better right of possession of realty independently of title.^[11] It refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.^[12]

The objective of the plaintiffs in *accion publiciana* is to recover possession only, not ownership.^[13] However, where the parties raise the issue of ownership, the courts may pass upon the issue to determine who between or among the parties has the right to possess the property. This adjudication, however, is not a final and binding determination of the issue of ownership; it is only for the purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property.^[14] The adjudication, in short, is not conclusive on the issue of ownership.^[15]

In the present case, both the petitioners-defendants and the respondents-plaintiffs raised the issue of ownership. The petitioners-defendants claim ownership based on the oral sale to and occupation by Gregorio Miranda, their predecessor-in-interest, since 1948. On the other hand, the respondents-plaintiffs claim that they are the owners, and their ownership is evidenced by the TCTs in their names. Under this legal situation, resolution of these conflicting claims will depend on the weight of the parties' respective evidence, *i.e.*, whose evidence deserves more weight.

b. Findings of Fact Below - Final and Conclusive

A weighing of evidence necessarily involves the consideration of factual issues - an exercise that is not appropriate for the Rule 45 petition that the petitioners-defendants filed; under the Rules of Court, the parties may raise only questions of law under Rule 45, as the Supreme Court is not a trier of facts.^[16] As a rule, we are