

## SECOND DIVISION

[ G.R. No. 161758, June 08, 2007 ]

**DEPARTMENT OF EDUCATION, DIVISION OF ALBAY  
REPRESENTED BY ITS SCHOOL'S DIVISION SUPERINTENDENT,  
PETITIONER, VS. CELSO OÑATE, RESPONDENT.**

### DECISION

**VELASCO, JR., J.:**

A little neglect may lead to great prejudice.

#### The Case

This is a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45 seeking to reverse and set aside the January 14, 2004 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 60659, which affirmed the November 3, 1997 Decision<sup>[3]</sup> of the Legaspi City Regional Trial Court (RTC), Branch I, declaring as null and void the December 21, 1998 Deed of Donation<sup>[4]</sup> executed by the Municipality of Daraga, Albay in favor of petitioner, and directing the latter to return to respondent Celso Oñate the possession of the portion of land occupied by the school site of the Daraga North Central Elementary School.

#### The Facts

Spouses Claro Oñate and Gregoria Los Baños owned Lot No. 6849 (disputed lot) with an area of around 27,907 square meters registered under the Torrens System of land registration under Original Certificate of Title (OCT) No. 2563. Claro Oñate had three children, namely: Antonio, Rafael, and Francisco, all surnamed Oñate. Respondent Celso Oñate is the grandson of Claro Oñate, being the son of Francisco Oñate.

In 1940, Bagumbayan Elementary School of Daraga was constructed on a portion of the disputed lot. The school was eventually renamed Daraga North Central Elementary School. The Municipality of Daraga leveled the area while petitioner Department of Education Culture and Sports (DECS; now Department of Education [DepEd]) developed and built various school buildings and facilities on the disputed lot.

Sometime in 1991, respondent filed a reconstitution proceeding of OCT No. 2563 which was granted by the Legaspi City RTC, Branch V after due notice, publication, and hearing. Consequently, OCT No. RO-18971<sup>[5]</sup> was issued in the name of spouses Claro Oñate and Gregoria Los Baños.

On August 26, 1991, a Deed of Extrajudicial Settlement of Estate and Cession was

executed by respondent and his three (3) sisters, namely: Melba O. Napil, Cielo O. Lardizabal, and Maria Visia O. Maldo, who waived their successional rights in favor of respondent Celso Oñate. Asserting that the disputed lot was inherited by his father, Francisco Oñate, from the latter's father, Claro Oñate, by virtue of a prior partition among the three (3) sons of Claro Oñate and Gregoria Los Baños, respondent in turn claimed ownership of said lot through the deed of extrajudicial settlement.

Meanwhile, the issue of whether respondent's father, Francisco Oñate, truly acquired the disputed lot through a prior partition among Claro Oñate's three (3) children had been passed upon in another case, Civil Case No. 8724 for Partition, Reconveyance and Damages filed by the heirs of Rafael Oñate before the Legaspi City RTC, Branch IX.<sup>[6]</sup> In said case, respondent Celso Oñate, the defendant, prevailed and the case was dismissed by the trial court.

Thereafter, respondent caused Lot No. 6849 to be subdivided into five (5) lots, all under his name, except Lot No. 6849-B which is under the name of Mariano M. Lim. On October 26, 1992, the subdivided lots were issued Transfer Certificate of Titles (TCTs): (1) Lot No. 6849-A (13,072 square meters) under TCT No. T-83946;<sup>[7]</sup> (2) Lot No. 6849-B (3,100 square meters) under TCT No. T-84049;<sup>[8]</sup> (3) Lot No. 6849-C (10,000 square meters) under TCT No. T-83948;<sup>[9]</sup> (4) Lot No. 6849-D (1,127 square meters) under TCT No. T-83949;<sup>[10]</sup> and (5) Lot No. 6849-E (608 square meters) under TCT No. T-83950.<sup>[11]</sup>

On December 15, 1992, through his counsel, respondent sent a letter to petitioner apprising it about the facts and circumstances affecting the elementary school and its occupancy of Lot No. 6849-A with an area of 13,072 square meters. Respondent proposed to petitioner DECS that it purchase Lot No. 6849-A at the Fair Market Value (FMV) of PhP 400 per square meter and also requested for reasonable rentals from 1960.<sup>[12]</sup> The records show that then DECS Director IV Jovencio Revil subsequently referred the matter to the DECS Division Superintendent Rizalina D. Saquido for investigation.<sup>[13]</sup>

On February 24, 1993, through his counsel, respondent likewise wrote to Engr. Orlando Roces, District Engineer, Albay Engineering District about the on-going construction projects in the school.<sup>[14]</sup> Engr. Roces then informed respondent's counsel that petitioner DECS is the owner of the school site having acquired the disputed lot by virtue of a Deed of Donation executed by the Municipality of Daraga, Albay in favor of petitioner.<sup>[15]</sup>

Consequently, on March 18, 1993, respondent instituted a Complaint<sup>[16]</sup> for Annulment of Donation and/or Quieting of Title with Recovery of Possession of Lot No. 6849 located at *Barrio Bagumbayan, Daraga, Albay* before the Legaspi City RTC, docketed as Civil Case No. 8715, against petitioner DECS, Division of Albay, represented by the Division Superintendent of Schools, Mrs. Rizalina D. Saquido; and the Municipality of Daraga, Albay, represented by the Municipal Mayor, Honorable Cicero Triunfante.

In its April 28, 1993 Answer,<sup>[17]</sup> the Municipality of Daraga, Albay, through Mayor Cicero Triunfante, denied respondent's ownership of the disputed lot as it alleged

that sometime in 1940, the Municipality bought said lot from Claro Oñate, respondent's grandfather, and since then it had continually occupied said lot openly and publicly in the concept of an owner until 1988 when the Municipality donated the school site to petitioner DECS; thus asserting that it could also claim ownership also through adverse possession. Moreover, it claimed that the disputed lot had been declared in the name of defendant municipality in the Municipal Assessor's Office under Tax Declaration No. 31954 from 1940 until 1988 for purposes of exemption from real estate taxes. Further, defendant Municipality contended that respondent was guilty of laches and was estopped from assailing ownership over the disputed lot.

Similarly, petitioner's April 29, 1993 Answer<sup>[18]</sup> reiterated in essence the defenses raised by the Municipality of Daraga, Albay and further contended that respondent had no cause of action because it acquired ownership over the disputed lot by virtue of a Deed of Donation executed on December 21, 1988 in its favor; and that respondent's claim was vague as it was derived from a void Deed of Extrajudicial Settlement of Estate and Cession disposing of the disputed lot which was already sold to the Municipality of Daraga, Albay in 1940. Petitioner likewise assailed the issuance of a reconstituted OCT over Lot 6849 when the lower court granted respondent's petition for reconstitution without notifying petitioner.

During the ensuing trial where both parties presented documentary and testimonial evidence, respondent testified that he came to know of the disputed lot in 1973 when he was 23 years old; that he took possession of the said lot in the same year; that he came to know that the elementary school occupied a portion of the said lot only in 1991; and that it was only in 1992 that he came to know of the Deed of Donation executed by the Municipality of Daraga, Albay.<sup>[19]</sup> Also, Felicito Armenta, a tenant cultivating a portion of disputed Lot 6849, testified that respondent indeed owned said lot and the share of the crops cultivated were paid to respondent.<sup>[20]</sup>

However, after respondent testified, defendants in said case filed a Joint Motion to Dismiss<sup>[21]</sup> on the ground that respondent's suit was against the State which was prohibited without the latter's consent. Respondent countered with his Opposition to Joint Motion to Dismiss.<sup>[22]</sup> Subsequently, the trial court denied the Joint Motion to Dismiss, ruling that the State had given implied consent by entering into a contract.<sup>[23]</sup>

Aside from the reconstituted OCT No. RO-18971, respondent presented the TCTs covering the five (5) portions of the partitioned Lot 6849, Tax Declaration No. 04-006-00681<sup>[24]</sup> issued for said lot, and the April 20, 1992 Certification<sup>[25]</sup> from the Office of the Treasurer of the Municipality of Daraga, Albay attesting to respondent's payment of realty taxes for Lot 6849 from 1980 to 1990.

After respondent rested his case, the defense presented and marked their documentary exhibits of Tax Declaration No. 30235 issued in the name of the late Claro Oñate, which was cancelled in 1938; Tax Declaration 31954,<sup>[26]</sup> which cancelled Tax Declaration No. 30235, in the name of Municipality of Daraga with the annotation of Ex-Officio Deputy Assessor Natalio Grageda attesting to the purchase by the Municipality under Municipal Voucher No. 69, August 1940 accounts and the issuance of TCT No. 4812 in favor of the Municipality; Tax Declaration No. 8926<sup>[27]</sup>

in the name of the Municipality which cancelled Tax Declaration No. 31954; and the subsequent Tax Declaration Nos. 22184,<sup>[28]</sup> 332,<sup>[29]</sup> and 04-006-00068.<sup>[30]</sup>

The defense presented the testimony of Mr. Jose Adra,<sup>[31]</sup> the Principal of Daraga North Central Elementary School, who testified on the Municipality's donation of disputed Lot 6849 to petitioner and the improvements on said lot amounting to more than PhP 11 million; and Mrs. Toribia Milleza,<sup>[32]</sup> a retired government employee and resident of Bagumbayan, Daraga, Albay since 1955, who testified on the Municipality's continuous and adverse possession of the disputed lot since 1940.

As mentioned earlier, Civil Case No. 8724 for Partition, Reconveyance and Damages was instituted by the heirs of Rafael Oñate in Legaspi City RTC, Branch IX against Spouses Celso Oñate and Allem Vellez, involving the same disputed lot. Petitioner and co-defendant Municipality of Daraga, Albay were about to file a complaint for intervention in said case, but it was overtaken by the resolution of the case on August 14, 1995 with the trial court dismissing the complaint.

### **The Ruling of the RTC**

On November 3, 1997, the trial court rendered a Decision in favor of respondent Celso Oñate. The dispositive portion declared, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants:

1. Declaring the Deed of Donation executed by the Municipality of Daraga, Albay in favor of the defendant Department of Education Culture and Sports through the Albay Schools Division as null and void;
2. Declaring the plaintiff as the owner in fee simple of Lots Nos. 6849-A, 6849-C, 6849-D and 6849-E which are registered in his name;
3. Commanding the defendants to return the possession of the portion of the land occupied by the school site to the herein plaintiff Celso Oñate;
4. Ordering the plaintiff for reason of equity, to pay the defendant Municipality of Daraga, Albay the amount of Fifty Thousand (50,000.00) Pesos pursuant to Article 479 of the New Civil Code of the Philippines;
5. The defendant Department of Education Culture and Sports being a builder in good faith, the provisions of Article 448 of the New Civil Code of the Philippines shall be observed by the parties; and
6. Ordering the defendants to pay the costs of the suit. No attorney's fees is hereby adjudged in favor of plaintiff's counsel.

SO ORDERED.<sup>[33]</sup>

The trial court ratiocinated that it was clear that subject Lot 6849 was originally registered under the Torrens System in the name of Spouses Claro Oñate and Gregoria Los Baños as evidenced by OCT No. RO-18971. The right of respondent Celso Oñate over the disputed lot had not been proven otherwise or overturned in Civil Case No. 8724, and this was bolstered by the Deed of Extrajudicial Settlement of Estate and Cession, where respondent's sister waived their successional rights in his favor. Thus, the trial court ruled in favor of respondent's title. Besides, it further ruled that defendants could not assail the registered title of respondent in a collateral proceeding.

While the Municipality of Daraga, Albay anchored its prior ownership over the disputed lot by virtue of a sale in 1940 and mentioned TCT No. 4812 supposedly issued in its name, it however failed to submit any deed of conveyance in its favor, as well as a copy of the alleged TCT No. 4812. Hence, the trial court held that its claim over disputed Lot 6849 was based solely on adverse prescription which could not prevail over respondent's registered title.

The trial court concluded that given these factual and evidentiary proofs, petitioner had no right to occupy Lot 6849-A, and the Deed of Donation executed by the Municipality of Daraga, Albay in favor of petitioner must be nullified. Finally, the trial court awarded PhP 50,000 to the Municipality of Daraga, Albay for the cost of landfill and ordered that Article 448<sup>[34]</sup> of the New Civil Code be followed by the parties as petitioner was a builder in good faith.

### **The Ruling of the Court of Appeals**

Aggrieved, petitioner DECS and Municipality of Daraga, Albay filed their respective Notices of Appeal<sup>[35]</sup> assailing the trial court's Decision before the CA. However, on June 17, 1998, the appellate court declared the appeals of both petitioners abandoned and dismissed for their failure to pay the required docket fees within the reglementary period.<sup>[36]</sup> Petitioner then filed a Motion for Reconsideration<sup>[37]</sup> of the said June 17, 1998 Resolution and its appeal was subsequently reinstated.<sup>[38]</sup> The Municipality of Daraga, Albay, however, totally lost its appeal due to inaction, and the appellate court correspondingly issued a Partial Entry of Judgment on July 9, 1998.<sup>[39]</sup>

Moreover, the appellate court held that there was no jurisdictional defect in the reconstitution proceeding being one *in rem*, and in the issuance of OCT No. RO-18971 based on the destroyed or lost OCT No. 2563, even if no notice was sent to petitioner. Thus, the CA ruled that respondent's claim of ownership over Lot 6849-A occupied by the school is conclusive for being soundly predicated on TCT No. T-83946 which cancelled the reconstituted OCT No. RO-18971. Furthermore, it reiterated the trial court's holding that petitioner is precluded from attacking collaterally respondent's title over the disputed lot in this proceeding.

The CA emphasized that petitioner's failure to present TCT No. 4812--allegedly issued in the name of the Municipality of Daraga, Albay in 1940 in lieu of OCT No. 2563 and the Deed of Conveyance executed by the original owner, Claro Oñate, in favor of the Municipality--was fatal to the defense. It reasoned that "all the more had their claim of ownership become doubtful when defendants-appellants [sic] failed to explain from their pleadings and the evidence submitted before Us their