

THIRD DIVISION

[G.R. NO. 159292, July 12, 2007]

**SPOUSES RICHARD B. PASCUAL AND CRISTINA D. PASCUAL,
PETITIONERS, VS. SPOUSES REYNALDO P. CORONEL AND
ASUNCION MALIG CORONEL, RESPONDENTS.**

DECISION

NACHURA, J.:

Before the Court is a petition for review of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 71323, dated April 30, 2003, and Resolution^[2] dated July 29, 2003 denying the motion for reconsideration thereof. The assailed Decision affirmed the ruling of the Regional Trial Court (RTC) which ordered the petitioners to vacate the disputed property and surrender its possession to the respondents.

Respondents, spouses Reynaldo and Asuncion Coronel, are the registered owners of two parcels of land covered by Transfer Certificate of Title (TCT) No. 68436,^[3] located in *Barrios* San Roque and San Rafael, Tarlac, with a total area of 253 sq.m., and the house standing thereon. They resided on the said property until sometime in 1969 when they decided to transfer to a new residence close to their business operations. The respondents then entrusted the property and the owner's copy of TCT No. 68436 to Asuncion's parents, Emilio and Alberta Malig, who moved into the property and resided therein. In 1981, Emilio and Alberta moved to a house in San Vicente, Sta. Ignacia, Tarlac, and entrusted the whole property to their son, Dr. Fermin Pascual, Jr. The latter had a son, petitioner Richard Pascual, who subsequently occupied the premises together with his wife, Cristina.

On April 27, 2001, the respondents formally demanded from the petitioners the immediate surrender of the premises but the latter failed and refused to vacate the same.^[4]

On June 19, 2001, the respondents filed with the Municipal Trial Court in Cities (MTCC) of Tarlac City a Complaint for Unlawful Detainer and Damages^[5] against the petitioners on the ground that the latter are occupying the property without their consent. The respondents alleged in the complaint that they need to retake possession of the property because they will be using it as their permanent residence since their current residence in Quezon City will be occupied by their daughter. Earnest efforts were exerted to settle the matter amicably but the same proved futile. This case was docketed as Civil Case No. 7821.

In their Answer with Counterclaim,^[6] the petitioners contended that the respondents are no longer the lawful owners of the subject house and lot because they already sold the same to Alberta as evidenced by the Deed of Absolute Sale of Real Estate^[7] dated February 18, 1975 (1975 Deed). Alberta, in turn, sold the

property to Dr. Melu-Jean Pascual, petitioner Richard's older sister, through the Deed of Absolute Sale of Real Estate^[8] dated March 6, 1989 (1989 Deed). According to the petitioners, after Alberta sold the property to Melu-Jean, she surrendered the actual possession of the property to the latter; hence, Melu-Jean is the lawful owner and possessor of the property. The petitioners claimed that they are occupying the property on behalf and with the consent of Melu-Jean, and therefore, she is the real party-in-interest and the complaint should be filed against her. The petitioners concluded that the complaint should then be dismissed since it was not filed against the real party-in-interest and it involves a serious question of ownership.

Apparently, the respondents also filed a case for annulment of deed of sale with the RTC of Tarlac City, docketed as Civil Case No. 9169. In the complaint, the respondents admitted that respondent Asuncion executed the 1975 Deed in favor of Alberta. They claimed, however, that it was simulated because there was no actual consideration paid to them by Alberta. Respondent Asuncion allegedly decided to execute the simulated contract because, at that time, her marriage to respondent Reynaldo was on the verge of breaking up. They averred that respondent Asuncion never appeared before any notary public at the time of the execution of the contract.^[9]

After the petitioners filed their answer in the case for unlawful detainer (Civil Case No. 7821), the respondents amended^[10] their complaint in the case for annulment (Civil Case No. 9169) to include Melu-Jean as defendant, and to pray for the nullification of the 1989 Deed in favor of Melu-Jean. The respondents alleged that Alberta's signature in the said deed of sale is a forgery and that it was not signed by Emilio, who was still very much alive then, contrary to what was written above his name as "deceased."

On November 5, 2001, the MTCC dismissed the complaint for unlawful detainer with costs against plaintiffs, herein respondents.^[11] In upholding the right of the petitioners to the possession of the property, the MTCC gave credence to the two deeds of sale which it pronounced as valid until annulled by the RTC in Civil Case No. 9169.

The respondents appealed to the RTC on the ground that the MTCC erred in relying on the deed of sale transferring the property to Melu-Jean. On March 26, 2002, the RTC reversed the MTCC's decision, thus:

In view of the foregoing, the decision appealed is hereby reversed and judgment is issued ordering the defendants and all other persons acting under their command to:

- i. Immediately vacate from the subject property and turn over possession of the same unto the plaintiffs;
- ii. To pay the plaintiffs the sum Php 20,000.00 as attorney's fees plus Php 2,000.00 as appearance fee for every hearing;
- iii. To pay the costs of the suit.

SO ORDERED.^[12]

In so ruling, the RTC found that the petitioners' possession was by the tolerance of the respondents, thus, lawful until the latter sent the petitioners a demand to

vacate. According to the RTC, the lower court failed to grasp the distinction between possession *de jure* or possession arising from ownership, and possession *de facto* or physical possession. It pointed out that the only issue in a case for unlawful detainer is possession *de facto*, which, in this case, should be decided in favor of the respondents. It ruled that the lower court erred in relying on the deeds of sale in determining who has the better right to possess the property as the same pertains to possession as an attribute of ownership (possession *de jure*). Further, the RTC held that the deed of sale executed by respondent Asuncion was simulated, thus, void from the beginning, and the second deed of sale executed by Alberta seemed falsified, and so, it cannot be the basis of a valid transfer of ownership.

On June 3, 2002, the RTC denied the petitioners' motion for reconsideration of its decision for want of merit.^[13]

The petitioners filed an appeal with the CA. The petitioners argued, *inter alia*, that they have a superior right because they are in actual physical possession of the property by authority of the real owner, Melu-Jean, who should have been impleaded as defendant. They contended that the action for unlawful detainer is not proper since the issue of ownership is raised; the proper action is to file an *accion publiciana* or *accion reivindicatoria* cognizable by the RTC.

On April 30, 2003, the CA affirmed the Decision of the RTC.^[14] The CA held that the respondents have a superior right to the possession of the subject property considering that they are its registered owners and a certificate of title is a conclusive evidence of ownership. Melu-Jean was not impleaded as defendant since she was not in actual possession of the property, and in an unlawful detainer case, the issue is purely physical possession. The CA pointed out, however, that, in an unlawful detainer case, the court may provisionally make a finding on the issue of ownership for the purpose of determining who has the right to possess the property. Thus, the RTC did not err in finding that the sale to Melu-Jean was invalid since it did so only to determine the question of possession, not ownership of the property. On the other hand, the MTCC's ruling that the petitioners have a better right to the possession based on the deeds of sale is erroneous because it refers to possession *de jure* which is not the issue in an unlawful detainer case.

On July 29, 2003, the CA denied the petitioners' motion for reconsideration for lack of merit.^[15] As a result, they filed this petition for review, raising the following issues:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN NOT CONSIDERING THE FACT THAT ALTHOUGH THE SUBJECT PROPERTY WAS STILL REGISTERED IN THE NAME OF THE RESPONDENTS, THEY, HOWEVER, WERE NO LONGER OR CEASED TO BE THE RIGHTFUL AND LAWFUL OWNERS OF THE SAID PROPERTY WHEN THEY EXECUTED THE DEED OF ABSOLUTE SALE OF REAL ESTATE ON FEBRUARY 18, 1975 IN FAVOR OF ALBERTA MALIG, RESPONDENT ASUNCION MALIG CORONEL'S MOTHER, AND WHO IN TURN SOLD THE SAME PROPERTY TO DR. MELU-JEAN PASCUAL, PETITIONER RICHARD PASCUAL'S OLDER SISTER, AS

EVIDENCED BY THE DEED OF ABSOLUTE SALE OF REAL ESTATE EXECUTED ON MARCH 6, 1989.

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN CONCLUDING THAT SINCE THE RESPONDENTS ARE STILL THE REGISTERED OWNERS OF THE SUBJECT PROPERTY THEY ARE ENTITLED TO THE POSSESSION THEREOF.

III.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN CONCLUDING THAT PETITIONERS' STAY ON THE SUBJECT PROPERTY WAS BY MERE TOLERANCE OF THE RESPONDENTS AND NOT BY DR. MELU-JEAN PASCUAL AND THAT THERE IS UNLAWFUL DETAINER.

IV.

WHETHER OR NOT THE HON. COURT OF APPEALS ERRED IN CONSIDERING THAT THE DEED OF ABSOLUTE SALE IS A SIMULATED ONE AND THEREFORE NULL AND VOID.

V.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN CONCLUDING THAT DR. MELU-JEAN PASCUAL IS GUILTY OF LACHES.

VI.

WHETHER OR NOT THE PROCEEDINGS BELOW WAS (sic) NULL AND VOID FOR NONJOINDER OF AN INDISPENSABLE PARTY.

VII.

WHETHER OR NOT THIS HONORABLE COURT CAN REVIEW THE FINDINGS OF FACTS BY THE HON. COURT OF APPEALS IN THIS CASE.

[16]

The petitioners contend that the respondents are no longer the owners of the property; therefore, they are not entitled to its possession. Their theory is that the 1975 Deed validly transferred ownership of the property to Alberta, which the latter, in turn, transferred to Melu-Jean through the 1989 Deed. The petitioners maintain that the 1975 Deed is a notarized document that enjoys the presumption of validity; it is considered valid unless declared null and void by a court of competent jurisdiction. The petitioners contend that the respondents' self-serving and unsubstantiated claim that the 1975 Deed is simulated cannot prevail over such presumption. Further, the fact that the person who notarized the same is not commissioned to be a notary public has no bearing on the validity of the 1975 Deed. The petitioners aver that the 1975 Deed is binding not only upon the parties but upon their heirs, assigns and successors-in-interest even if it was not registered; in any case, registration is not necessary as it does not confer ownership. They point