

FIRST DIVISION

[G.R. NO. 168943, October 27, 2006]

IGLESIA NI CRISTO, PETITIONER, VS. HON. THELMA A. PONFERRADA, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BR. 104, QUEZON CITY, AND HEIRS OF ENRIQUE G. SANTOS, RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

This is a Petition for Review on *Certiorari* of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 72686 and its Resolution^[2] denying the motion for reconsideration of the said decision.

On October 24, 2001, Alicia, Alfredo, Roberto, Enrique and Susan, all surnamed Santos, and Sonia Santos-Wallin, represented by Enrique G. Santos, filed a complaint^[3] for Quieting of Title and/or *Accion Reinvidicatoria* before the Regional Trial Court (RTC) of Quezon City against the *Iglesia Ni Cristo* (INC), defendant therein.

Plaintiffs alleged therein that, during his lifetime, Enrique Santos was the owner of a 936-square-meter parcel of land located in Tandang Sora, Quezon City covered by Transfer Certificate of Title (TCT) No. 57272 issued by the Register of Deeds on July 27, 1961 which cancelled TCT No. 57193-289. He had been in possession of the owner's duplicate of said title and had been in continuous, open, adverse and peaceful possession of the property. He died on February 9, 1970 and was survived by his wife, Alicia Santos, and other plaintiffs, who were their children. Thereafter, plaintiffs took peaceful and adverse possession of the property, and of the owner's duplicate of said title. When the Office of the Register of Deeds of Quezon City was burned on June 11, 1988, the original copy of said title was burned as well. The Register of Deeds had the title reconstituted as TCT No. RT-110323, based on the owner's duplicate of TCT No. 57272. Sometime in February 1996, plaintiffs learned that defendant was claiming ownership over the property based on TCT No. 321744 issued on September 18, 1984 which, on its face, cancelled TCT No. 320898, under the name of the Philippine National Bank, which allegedly cancelled TCT No. 252070 in the names of the spouses Marcos and Romana dela Cruz. They insisted that TCT Nos. 321744, 320898 and 252070 were not among the titles issued by the Register of Deeds of Quezon City and even if the Register of Deeds issued said titles, it was contrary to law. Enrique Santos, during his lifetime, and his heirs, after his death, never encumbered or disposed the property. In 1996, plaintiffs had the property fenced but defendant deprived them of the final use and enjoyment of their property.

Plaintiffs prayed that, after due proceedings, judgment be rendered in their favor, thus:

WHEREFORE, it is respectfully prayed that, after due hearing, judgment be rendered quieting the title of plaintiffs over and/or recover possession of their said property in the name of deceased Enrique Santos, covered by said TCT No. RT-110323(57272) of the Register of Deeds at Quezon City and that:

1. The title of defendant, TCT No. 321744 be ordered cancelled by the Register of Deeds of Quezon City;
2. The defendant be ordered to pay plaintiffs' claims for actual damages in the sum of P100,000.00;
3. The defendant be ordered to pay plaintiffs' claims for compensatory damages in the sum of at least P1,000,000.00;
4. The defendant be ordered to pay plaintiffs' claims for reimbursement of the lawyer's professional fees consisting of the aforesaid P50,000.00 acceptance fee and reimbursement of the said success fee in par. 10 above; and lawyer's expenses of P2,000.00 for each hearing in this case;
5. The defendant be ordered to pay expenses and costs of litigation in the sum of at least P200,000.00.

Other reliefs that are just and equitable in the premises are, likewise, prayed for.^[4]

As gleaned from the caption of the complaint, plaintiffs appear to be the heirs of Enrique Santos, represented by Enrique G. Santos. The latter signed the Verification and Certificate of Non-Forum Shopping which reads:

I, ENRIQUE G. SANTOS, of legal age, under oath, state that I am one of the children of the late Enrique Santos and I represent the heirs of said Enrique Santos who are my co-plaintiffs in the above-captioned case and that I directed the preparation of the instant complaint, the contents of which are true and correct to the best of my knowledge and the attachments are faithful reproductions of the official copies in my possession.

I hereby certify that I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, and to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, and that I shall notify this Commission within three days from notice that a similar action or proceeding has been filed or is pending thereat.

IN WITNESS WHEREOF, I hereby affix my signature this 23rd day of October 2001 at Pasig City, Metro Manila.

(Sgd.)
ENRIQUE G. SANTOS

SUBSCRIBED AND SWORN to before me this 23rd day of October 2001 at Pasig City, affiant exhibiting to me his CTC No. 07303074 issued at Sta. Cruz, Laguna on April 16, 2001.

(Sgd.)
PETER FRANCIS G. ZAGALA
Notary Public
Until December 31, 2002
PTR No. 0287069
Issued on 1-10-01
At Pasig City^[5]

Defendant moved to dismiss plaintiffs' complaint on the following grounds: (1) plaintiffs failed to faithfully comply with the procedural requirements set forth in Section 5, Rule 7 of the 1997 Rules of Civil Procedure; (2) the action (either Quieting of Title or *Accion Reinvidicatoria*) had prescribed, the same having been filed only on October 24, 2001 beyond the statutory ten-year period therefor; and (3) that the complaint is defective in many respects.^[6]

Defendant asserted that the case involved more than one plaintiff but the verification and certification against forum shopping incorporated in the complaint was signed only by Enrique Santos. Although the complaint alleges that plaintiffs are represented by Enrique Santos, there is no showing that he was, indeed, authorized to so represent the other plaintiffs to file the complaint and to sign the verification and certification of non-forum shopping.^[7] Thus, plaintiffs failed to comply with Section 5, Rule 7 of the Rules of Court. Defendant cited the ruling of this Court in *Loquias v. Office of the Ombudsman*.^[8]

Defendant maintained that the complaint is defective in that, although there is an allegation that Enrique Santos represents the other heirs, there is nothing in the pleading to show the latter's authority to that effect; the complaint fails to aver with particularity the facts showing the capacity of defendant corporation to sue and be sued; and the pleading does not state the address of plaintiffs. Defendant likewise averred that the complaint should be dismissed on the ground of prescription. It argued that plaintiffs anchor their claim on quieting of title and considering that they are not in possession of the land in question, their cause of action prescribed after ten years. On the other hand, if the supposed right of plaintiffs is based on *accion reinvidicatoria*, prescription would set in after 10 years from dispossession. In both cases, defendant asserts, the reckoning point is 1984 when defendant acquired TCT No. 321744 and possession of the land in question.

In their Comment^[9] on the motion, plaintiffs averred that the relationship of a co-owner to the other co-owners is fiduciary in character; thus, anyone of them could effectively act for another for the benefit of the property without need for an authorization. Consequently, Enrique Santos had the authority to represent the other heirs as plaintiffs and to sign the verification and certification against forum shopping.^[10] On the issue of prescription, plaintiffs argued that the prescriptive period for the actions should be reckoned from 1996, when defendant claimed ownership over the property and barred plaintiffs from fencing their property, not in 1984 when TCT No. 321744 was issued by the Register of Deeds in the name of

defendant as owner.

In its reply, defendant averred that absent any authority from his co-heirs, Enrique Santos must implead them as plaintiffs as they are indispensable parties. In response, plaintiffs aver that a co-owner of a property can execute an action for quieting of title without impleading the other co-owners.

The trial court issued an Order^[11] denying defendant's motion to dismiss. It declared that since Enrique Santos was one of the heirs, his signature in the verification and certification constitutes substantial compliance with the Rules. The court cited the ruling of this Court in *Dar v. Alonzo-Legasto*.^[12] The court, likewise, held that prescription had not set in and that failure to state the address of plaintiffs in the complaint does not warrant the dismissal of the complaint.

Defendant filed a motion for reconsideration, which the court likewise denied in an Order^[13] dated July 10, 2002.

Unsatisfied, defendant, as petitioner, filed a Petition for *Certiorari* and Prohibition with Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Injunction^[14] before the CA, raising the following issues:

I.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION WHEN SHE HELD THAT THE CERTIFICATION OF NON-FORUM SHOPPING SIGNED BY ENRIQUE G. SANTOS ALONE IS A SUBSTANTIAL COMPLIANCE WITH SECTION 5, RULE 7 OF THE 1997 RULES OF CIVIL PROCEDURE, IN CLEAR CONTRAVENTION OF THE RULES OF COURT, AND THE RULING IN *LOQUIAS V. OFFICE OF THE OMBUDSMAN*, G.R. NO. 1399396 (*SIC*), AUGUST 16, 2000, 338 SCRA 62, AND *ORTIZ V. COURT OF APPEALS*, G.R. NO. 127393, 299 SCRA 708 (DECEMBER 4, 1998).

II.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION IN APPLYING THE RULING IN *DAR, ET. AL. V. HON. ROSE MARIE ALONZO-LEGASTO, ET. AL.*, G.R. NO. 143016, AUGUST 30, 2000 TO THE INSTANT CASE.

III.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION WHEN SHE HELD THAT THE AUTHORITY OF ENRIQUE G. SANTOS TO REPRESENT HIS CO-HEIRS IN THE FILING OF THE COMPLAINT AGAINST THE "INC" IS A MATTER OF EVIDENCE.

IV.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION WHEN SHE HELD THAT THE ACTION FOR QUIETING OF

TITLE AND/OR ACCION REINVINDICATORIA (CIVIL CASE NO. Q-01-45415) HAS NOT YET PRESCRIBED.^[15]

Petitioner averred that, of the plaintiffs below, only plaintiff Enrique Santos signed the verification and certification of non-forum shopping. Under Section 5, Rule 7 of the 1997 Rules of Civil Procedure, all the plaintiffs must sign, unless one of them is authorized by a special power of attorney to sign for and in behalf of the others. Petitioner argues that the bare claim of Enrique Santos that he signed the verification and certification in his behalf and of the other plaintiffs who are his co-heirs/co-owners of the property does not even constitute substantial compliance of the rule. Contrary to the ruling of the trial court, the absence or existence of an authority of Enrique Santos to sign the verification and certification for and in behalf of his co-plaintiffs is not a matter of evidence. The defect is fatal to the complaint of respondents and cannot be cured by an amendment of the complaint. The trial court erred in applying the ruling of this Court in *Dar v. Alonzo-Legasto*.^[16]

Petitioner maintained that the action of respondents, whether it be one for quieting of title or an *accion reivindicatoria*, had prescribed when the complaint was filed on October 24, 2001. Petitioner asserts that this is because when respondents filed their complaint, they were not in actual or physical possession of the property, as it (petitioner) has been in actual possession of the property since 1984 when TCT No. 321744 was issued to it by the Register of Deeds. This is evident from the nature of a reivindicatory action itself - which is an action whereby plaintiff alleges ownership over the subject parcel of land and seeks recovery of its full possession. By their action, respondents thereby admitted that petitioner was in actual possession of the property, and as such, respondents' action for quieting of title or *accion reivindicatoria* may prescribe in ten (10) years from 1984 or in 1994, it appearing that it acted in good faith when it acquired the property from the registered owner, conformably with Article 555(4) of the New Civil Code.

On April 7, 2005, the CA rendered the assailed decision^[17] dismissing the petition, holding that the RTC did not commit grave abuse of its discretion amounting to lack or excess of jurisdiction in denying petitioner's motion to dismiss. As the Court held in *DAR v. Alonzo-Legasto*^[18] and in *Gudoy v. Guadalquiver*,^[19] the certification signed by one with respect to a property over which he shares a common interest with the rest of the plaintiffs (respondents herein) substantially complied with the Rules. As to the issue of prescription, the appellate court held that the prescriptive period should be reckoned from 1996, when petitioner claimed ownership and barred respondents from fencing the property.

Petitioner is now before this Court on petition for review on *certiorari*, raising the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT THE CERTIFICATION OF NON-FORUM SHOPPING SIGNED BY RESPONDENT ENRIQUE G. SANTOS ALONE IS A SUBSTANTIAL COMPLIANCE WITH SECTION 5, RULE 7 OF THE 1997 RULES OF CIVIL PROCEDURE AND IN APPLYING THE CASE OF *GUDOY V. GUADALQUIVER*, 429 SCRA 723, WITHOUT REGARD TO MORE RECENT JURISPRUDENCE.