

THIRD DIVISION

[G.R. NO. 147738, December 13, 2005]

PHIL-VILLE DEVELOPMENT AND HOUSING CORPORATION AND GERONINA QUE, PETITIONERS, VS. MERCEDES JAVIER, IN HER PERSONAL CAPACITY AND AS REPRESENTATIVE OF THE HEIRS OF THE LATE CRISANTO JAVIER, RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant petition for review on *certiorari* seeking to reverse the Decision^[1] dated December 22, 2000 and the Resolution^[2] dated April 17, 2001 of the Court of Appeals (Sixth Division) in CA-G.R. CV No. 39913.

This case traces its antecedents to a verified complaint filed by Mercedes Javier, herein respondent, on February 14, 1990 with the Regional Trial Court, Branch 16, Malolos City, for damages and injunction, docketed as Civil Case No. 122-M-90. Impleaded as defendant was PHILVILLE Development and Housing Corporation (PHILVILLE), one of herein petitioners.

The complaint alleges that spouses Crisanto (now deceased) and Mercedes Javier have been tenant-cultivators of a 5.5 hectare parcel of rice land located at Camalig, Meycauayan, Bulacan, owned by Felimon Emperado, a holder of a free patent. Sometime in 1977, PHILVILLE proposed to buy the land for conversion into a housing subdivision. Spouses Javier, PHILVILLE and Emperado then entered into a *Kasulatan ng Pagsasalin at Kusang Loob na Pagsusuko*. Among the terms agreed upon by the parties was that the Javiers would be given a 2,000 square meter lot as a disturbance compensation. However, instead of giving them a single lot measuring 2,000 square meters, what they received were 2 separate lots of 1,000 square meters each located far apart. This prompted Mercedes to sue PHILVILLE for damages.

In its answer, PHILVILLE specifically denied the allegations in the complaint and raised the following affirmative and special defenses: (1) the complaint fails to state a cause of action; (2) it does not allege that the parties resorted to conciliation proceedings before the barangay; and (3) plaintiff is estopped from filing the complaint.

Forthwith, Mercedes filed a motion for leave of court to amend her complaint. In her attached amended complaint, she alleged that the *Kasulatan* did not express the true agreement of the parties and that the sale is void as it was executed within the 5-year prohibitive period from the issuance of the free patent.

The trial court issued an Order denying Mercedes' motion, holding that the proposed amendment is inconsistent with the cause of action in the original complaint; and

that the proposed amendment is the subject of Civil Case No. 172-M-90 between the same parties pending before another branch of the trial court.

Mercedes filed a motion for reconsideration of the trial court's Order but it was denied.

On November 13, 1991, PHILVILLE moved to dismiss the original complaint alleging that the plaintiff had filed a protest with the Land Management Bureau seeking the revocation of the free patent issued to Felimon Emperado and the reversion of the land to the public domain.

On November 29, 1991, the trial court issued an Order granting PHILVILLE's motion to dismiss, thus:

"For the reasons stated in the Motion to Dismiss filed by the defendants, thru counsel, on November 13, 1991, and it appearing from the records that plaintiffs have no objection thereto as shown by the latter's failure to appear before this Court during the hearing of the said motion on November 29, 1991, notwithstanding, proper service of notice thereof, the same is hereby GRANTED.

WHEREFORE, as prayed for, let this be as it is hereby DISMISSED."

On December 27, 1991, Mercedes filed a motion for reconsideration of the said Order but it was denied. This prompted her to interpose an appeal to the Court of Appeals.

On December 22, 2000, the Court of Appeals rendered its Decision reversing the trial court's assailed Orders and remanding the case to the trial court for further proceedings.

PHILVILLE filed a motion for reconsideration but it was denied by the Appellate Court in a Resolution dated April 17, 2001.

Hence, the instant petition for review on *certiorari*.

The sole issue for our resolution is whether the Court of Appeals erred in reversing the challenged Orders of the trial court dismissing the complaint in Civil Case No. 122-M-90.

We find no merit in the petition.

Section 1, Rule 16 of the Revised Rules of Court then applicable provides:

"SEC. 1. Grounds. – **Within the time for pleading** a motion to dismiss the action may be made on any of the following grounds:

- (a) That the court has no jurisdiction over the person of the defendant or over the subject of the action or suit;
- (b) That the court has no jurisdiction over the nature of the action or suit;
- (c) That venue is improperly laid;