

## SECOND DIVISION

[ G.R. No. 125375, June 17, 2004 ]

**SPOUSES ELPIDIO APOSTOL AND AMELIA APOSTOL,  
PETITIONERS, VS. COURT OF APPEALS AND SPOUSES  
EMMANUEL CHUA AND EDNA L. CHUA, RESPONDENTS.**

### D E C I S I O N

**CALLEJO, SR., J.:**

This is a petition for review of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 38333 reversing the Decision,<sup>[2]</sup> on appeal, of the Regional Trial Court of Quezon City, Branch 215, in Civil Case No. Q-94-21698.

#### The Antecedents

On September 3, 1993, the respondents, Spouses Emmanuel and Edna Chua, filed a complaint for unlawful detainer against the petitioners, Spouses Elpidio and Amelia Apostol, in the Metropolitan Trial Court (MeTC) of Metro Manila, docketed as Civil Case No. 7660. The respondents alleged, *inter alia*, that they had contracted with the Spouses Paulo and Georgina Pascua for the purchase of a parcel of land. The petitioners, who were present during the negotiations, verbally assured the respondents that they would vacate the property within ten (10) days from the execution of the sale. The petitioners then acknowledged that their stay in the property was only upon the tolerance of its former owners. On June 7, 1993, the Spouses Pascua executed a Deed of Absolute Sale over the property and the improvements thereon in favor of the respondents for P1,000,000. On the basis of the said deed, the respondents were issued Transfer Certificate of Title (TCT) No. 87610 over the property on June 8, 1993. Despite demands, however, the petitioners refused to vacate the property.

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

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Court that after a summary hearing, judgment be rendered in favor of the plaintiffs and against the defendants, as follows:

1. Ordering the defendants and all persons claiming under them to immediately vacate the above-mentioned parcel of land;
2. Ordering the defendants to pay the plaintiffs the sum of P5,000.00 per month from the filing of the complaint until they finally vacate and turn over completely the above-mentioned parcel of land representing the reasonable compensation for the use and

occupancy of the above-mentioned parcel of land;

3. Ordering the defendants to pay the plaintiffs the sum of P10,000.00 for and as attorney's fees, plus the sum of P1,000.00 appearance fee for every court attendance of plaintiffs' counsel; and
4. Ordering defendants to pay plaintiffs the costs of suit.

*PLAINTIFFS* further pray for such other reliefs and remedies as may be deemed just and equitable in the premises.<sup>[3]</sup>

In their answer with special and affirmative defenses and compulsory counterclaim, the respondents alleged, *inter alia*, that Luz B. Pascua was the owner of the parcel of land located in Quezon City covered by TCT No. 198936 with an area of 315 square meters. She sold a portion of the property, an area of 285.32 square meters, to the respondents on July 8, 1976 for P45,548 of which P15,548 was paid. On the same day, the parties executed a memorandum agreement covering the property, in which the respondents agreed that the balance of the purchase price would be paid in installments. Thereafter, a deed of absolute sale was executed in favor of the respondents over an unsegregated portion of the property, with an area of 29.68 square meters, for P7,350 and, later, a deed of confirmation of deed of absolute sale with waiver over the said property. On June 20, 1979, the respondents executed an Affidavit of Adverse Claim over the property, stating, *inter alia*, that they could not cause the registration of the said deeds because the owner's duplicate of TCT No. 198936 was in the possession of Teresita B. Jimenez, a former co-owner of the property. The respondents further alleged that Luz Pascua, in her letter to the Register of Deeds dated August 6, 1979, confirmed that she failed to turn over the owner's duplicate of TCT No. 198936 because the same was in the possession of Jimenez, who, in turn, gave it to Jose J. Burgos. Thereafter, on May 15, 1980, Luz Pascua filed a Complaint against the petitioners in the RTC of Quezon City for rescission and damages docketed as Civil Case No. 29895 but the same was dismissed on December 19, 1983 for lack of interest to prosecute. Paulo Pascua filed a similar complaint against the petitioners in the RTC, docketed as Civil Case No. 88-523, but the same was, likewise, dismissed. Finally, the petitioners alleged that the Spouses Pascua's possession of the property after the sale thereof to the respondents was by mere tolerance.

In the meantime, the petitioners filed a complaint against the respondents, the Spouses Chua, the Spouses Pascua, and the Register of Deeds in the RTC of Quezon City, for annulment of deed of sale and TCT No. 86338, and for reconveyance with damages. The petitioners alleged, *inter alia*, that they had been in possession of the property since 1973; their adverse claim over the property was annotated on June 20, 1979 as Entry No. PE 8812; Luz Pascua died on December 2, 1984 but Paulo Pascua did not inherit the property from her because the same had already been sold to the respondents; Paulo Pascua executed a falsified affidavit for self-adjudication over the property on the basis of which he was able to secure, on May 20, 1993, TCT No. 86338.

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

WHEREFORE, premises considered, it is respectfully prayed that judgment be rendered as follows:

1. Nullifying the deed of sale executed by Paulo Pascua in favor of Edna Chua, marked as Annex "G" hereof and TCT No. 87610 (Annex "H") in the name of Edna L. Chua; including TCT No. 86338 RT-432 (Annex "F") in the name of Paulo Pascua; and in the alternative to reconvey the aforesaid property to herein plaintiffs;
2. Ordering the Register of Deeds of Quezon City to cancel TCT Nos. 87610 and 86338;
3. Sentencing defendants to pay plaintiffs:
  - a) P100,000 as actual and consequential damages;
  - b) P50,000 as moral damages;
  - c) Exemplary damages, P50,000;
  - d) P15,000 as attorney's fee;
  - e) Cost; and,
  - f) Praying for other reliefs and remedies, equitable and just under the premises.<sup>[4]</sup>

On February 17, 1994, the MeTC issued an Order in Civil Case No. 7660 defining the issues, thus:

1. Whether or not the complaint is for Forcible Entry or Unlawful Detainer;
2. Who is entitled to the lawful possession of the subject property;
3. Whether this case has to be suspended in view of the filing of an action for Annulment of Title in the Regional Trial Court of Quezon City; and
4. Whether the plaintiffs can lawfully eject the defendants from the premises.<sup>[5]</sup>

The MeTC rendered judgment in favor of the respondents on August 11, 1994. The decretal portion of the decision reads:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of plaintiffs and against defendants by ordering as follows:

- 1) Defendants and all persons claiming rights under them to vacate the premises denominated as No. 39, Visayas Ave., Project 6, Diliman, Quezon City, and to surrender the peaceful possession thereof to plaintiffs;
- 2) Defendants to pay plaintiffs the sum of P5,000.00 per month representing the reasonable compensation for the use and occupancy of the premises from the time of formal demand until the possession of the premises shall have been fully restored to plaintiffs;

3) Defendants to pay plaintiffs the sum of P5,000.00 as attorney's fees; and

4) Defendants to pay the costs of this suit.

SO ORDERED.<sup>[6]</sup>

The MeTC ruled that having acquired the property from the Spouses Pascua, and being the registered owners of the property, the respondents are entitled to the possession thereof:

The Court holds that plaintiffs are the ones entitled to the material or physical possession of the subject property. This is so because they have sufficiently established their title over the premises in question. They have shown that they are the registered owners of the subject premises located at No. 39 Visayas Avenue, Project 6, Diliman, Quezon City, as evidenced by Transfer Certificate of Title No. 87610 issued in their name by the Registry of Deeds of Quezon City, which property they acquired from its former registered owners, the Sps. Paulo and Georgiana (sic) Pascua. Hence, as an incident to their ownership over said property, plaintiffs are entitled to its possession.<sup>[7]</sup>

The court also ruled that the proceedings were not suspended by the pendency of Civil Case No. Q-94-19352.

The respondents appealed the decision to the RTC, which rendered judgment on April 15, 1996 in their favor, reversing the decision of the MeTC and ordering the dismissal of the complaint. The RTC anchored its decision on the following findings:

It is the contention of the plaintiff that as registered owners of the subject lot, they have the right to take possession thereof and eject defendants from the premises. On the other hand, it is the contention of the defendants that they are the rightful owners of the land and have been in possession thereon from the time they acquired the land from the real owner Luz B. Pascua.

In ejectment cases, the only issue to be determined by the Court is the fact of prior physical and material possession over the subject property. Under Article 538 of the New Civil Code (NCC), it is provided that:

"Article 538. Possession as a fact cannot be recognized at the same time in two different personalities except in cases of co-possession. Should a question arise regarding the fact of possession, the present possessor shall be preferred, if there are two possessors, the one longer in possession; if the dates of the possession are the same, the one who presents a title; and if all these conditions are equal, the thing shall be placed in judicial deposit pending determination of its possession or ownership through proper proceedings."

In this case, defendants were able to establish the fact that they have been in physical and material possession of the subject premises from