

## SECOND DIVISION

[ G.R. No. 145793, June 10, 2004 ]

**LINA VILLANUEVA, PETITIONER, VS. GENEROSO YAP AND THE  
HONORABLE REGIONAL TRIAL COURT, OF GENERAL SANTOS  
CITY, BRANCH 37 PRESIDED BY HON. MONICO G. CABALES,  
RESPONDENTS.**

### DECISION

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

This is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Regional Trial Court of General Santos City, Branch 37, in Civil Case No. 4825 ordering the petitioner to vacate the subject property.

#### The Antecedents

On April 30, 1987, respondent Generoso Yap filed a complaint against petitioner Lina Villanueva, docketed as Civil Case No. 3551, for recovery of possession of real properties, with a plea for a writ of preliminary injunction over two parcels of land, Lots 614-A and 614-L, located in General Santos City. Each lot had an area of 122,903 square meters and was covered by Original Certificate of Title (OCT) No. P-3176.

The respondent alleged, *inter alia*, that he purchased the said parcels of land from Concepcion G. Malonjao for P100,000.00 on January 23, 1987. He averred that the petitioner had been in possession of one side of the property since 1985, without any color of title or right thereto. The petitioner refused to vacate the property upon demand and, on April 27, 1987, even enlarged the portion of the property she occupied; she harvested the bananas on the adjacent areas, and placed her hogs therein.

The respondent prayed that, after due proceedings, judgment be rendered in his favor, thus:

WHEREFORE, it is most respectfully prayed of the Honorable Court that before the issuance of the writ of preliminary injunction, and (sic) injunction be issued, which can only be granted on notice and hearing, that the Honorable Court issues a temporary restraining order, commanding the defendant to desist from further committing acts of dispossession, and that after hearing, that a writ of injunction and writ of preliminary injunction be issued commanding the defendant to vacate her unlawful occupancy of the subject hut, and that judgment be rendered making said injunction permanent with costs against the defendant and for her to pay the attorney's fees of P10,000.00.

Plaintiff further prays for such other reliefs as are just and equitable under the premises.<sup>[2]</sup>

The case was docketed as Civil Case No. 3551 and was raffled to Branch 23 of the RTC. In her answer to the complaint, the petitioner alleged that Concepcion Malonjao designated her as caretaker of the property in 1974. She then built a hut on a portion of the property, where she and her family resided and planted a variety of plants. She further alleged that on June 2, 1978, Malonjao appointed her, in writing, as timekeeper and *capataz* in the property. Malonjao mortgaged the property to a certain Mr. Manansala in 1983, and her services as *capataz* were retained. The respondent informed her of his plan to buy the property and to terminate her employment in 1986. Malonjao finally terminated her services in February 1987, but failed to pay her separation pay. This impelled her to file a complaint against her employer in the NLRC, docketed as ROXI Case No. MC-032-65-87, for illegal dismissal and reinstatement with money claims. Thereafter, Malonjao, through her son Rufino Malonjao, offered to settle the case for P10,000.00. The petitioner was told that the amount was with the respondent, but before she could receive the same, the respondent's counsel, in the company of armed men, ordered her to remove her hut from the property.

The petitioner interposed counterclaims. For the respondent's failure to appear for trial, his complaint was dismissed and the petitioner was allowed to adduce evidence, *ex parte*, on her counterclaims.

On February 24, 1989, the court rendered judgment dismissing the complaint and ordering the respondent to pay damages to the petitioner on her counterclaims. The decretal portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the defendant ordering plaintiff to pay defendant as follows:

- a) P3,000.00 as moral damages;
- b) P3,000.00 as exemplary damages;
- c) P1,000.00 as temperate damages; and
- d) cost of the suit.

SO ORDERED.<sup>[3]</sup>

Both parties appealed the decision to the Court of Appeals, and the appeal was docketed as CA-G.R. CV No. 23979. On October 16, 1991, the CA rendered judgment affirming the decision of the trial court. The decision of the Court of Appeals became final and executory after the plaintiff's petition for review on certiorari, docketed as G.R. No. 104466, was dismissed by this Court in a Resolution dated January 22, 1992. Entry of judgment of the resolution was made of record on May 6, 1992.

Earlier, on May 22, 1992, the respondent had filed a complaint against the petitioner in the Regional Trial Court of General Santos City for recovery of possession of property with a prayer for a writ of preliminary injunction. The case was docketed as

Civil Case No. 4825 and was raffled to the RTC, Branch 37. Except for the allegation in his complaint that Civil Case No. 3551 had been previously dismissed, and the inclusion of Lot 614-J as the subject of his complaint, the material allegations therein were similar to those in Civil Case No. 3551.

The petitioner filed a motion to dismiss the complaint on the ground of *res judicata*, but the court denied the same. The court, likewise, denied the petitioner's motion for reconsideration of the said order.

In her answer to the complaint, the petitioner alleged that the complaint was barred by *res judicata*. She also pointed out that she was a caretaker of the subject property and, as such, it was the DARAB, not the trial court, which had jurisdiction over the action.

Meanwhile, the writ of execution issued by the trial court for the enforcement of its decision in Civil Case No. 3551 was satisfied by the respondent, per the Sheriff's Return dated November 20, 1992.

On August 24, 1994, the court rendered judgment in Civil Case No. 4825 in favor of the *respondent*, the dispositive portion of which reads:

WHEREFORE, in view of the fact that the defendant's occupation of the subject land is illegal, the defendant is hereby ordered to vacate the subject land and deliver possession thereof to plaintiff. Defendant is, likewise, ordered to pay plaintiff the sum of P30,000.00 as moral damages; P20,000.00 as attorney's fees; P10,000.00 as exemplary damages.

SO ORDERED.<sup>[4]</sup>

The petitioner appealed the decision to the Court of Appeals, docketed as CA-G.R. CV No. 48126, alleging as follows:

1. That the Trial Court below erred in not dismissing the plaintiff-appellee's complaint on the ground of *res judicata*;
2. That the Trial Court below erred in not considering the defendant-appellant as tenant over the land in question;
3. That the Trial Court below erred in assuming jurisdiction over the subject matter of the complaint;
4. That the Trial Court below erred in treating the defendant-appellant as possessor in bad faith of the land in question.<sup>[5]</sup>

On July 26, 1999, the appellate court rendered judgment<sup>[6]</sup> affirming the appealed decision. The court also denied the petitioner's motion for the reconsideration of the decision. Entry of judgment was made of record on February 4, 2000. The respondent's motion for a writ of execution was granted by the court on July 24, 2000.

On August 31, 2000, the respondent filed, in Civil Case No. 3551, a verified pleading

for revival of judgment and issuance of an alias writ of execution with a prayer for a writ of preliminary injunction to enjoin the enforcement of the decision in Civil Case No. 4825. On September 11, 2000, the RTC, Branch 23 issued an Order in Civil Case No. 3551, refusing to take cognizance of the pleading, holding that the respondent should file a new case and not a mere motion to revive its judgment.

On August 29, 2000, the petitioner filed a petition against the respondent in the Court of Appeals, docketed as CA-G.R. SP No. 60812, to annul the judgment of the RTC, Branch 37 in Civil Case No. 4825. The appellate court issued a Resolution dated September 29, 2002 dismissing the petition. *The resolution of the CA became final and executory.*

Meanwhile, in Civil Case No. 4825, the petitioner filed a motion to stay execution. On September 27, 2000, the court issued an Order directing the petitioner to post a *supersedeas* bond of P50,000.00 pending its resolution of her motion to stay execution.<sup>[7]</sup>

On October 12, 2000, the court issued an order in Civil Case No. 4825 denying the petitioner's motion to stay execution. On November 28, 2000, the Sheriff submitted his report in Civil Case No. 4825 on the enforcement of the decision of the court, stating that it was partially enforced in that the petitioner had been evicted from the property, but that she had not paid the damages due under the decision because she was impoverished.

### **The Present Petition**

In the meantime, on November 20, 2000, the petitioner filed before this Court a petition for certiorari under Rule 65 of the Rules of Court, with a motion for a writ of preliminary injunction against the respondent, for the reversal of the decision of Branch 37 of the RTC in Civil Case No. 4825, on the ground that the DARAB, not the RTC, had jurisdiction over the complaint of the respondent, as ruled by the RTC, Branch 23 in Civil Case No. 3551.

On November 29, 2000, the Court resolved to issue a writ of temporary restraining order enjoining the respondents from enforcing the RTC Decision, as well as its Orders of August 24, 1994 and July 24, 2000.

The petitioner contends that the action of the respondent in the court a quo in Civil Case No. 4825 was barred by the decision in Civil Case No. 3551. The petitioner further asserts that the respondent is guilty of forum shopping in filing his complaint in Civil Case No. 4823. She claims that as held in Civil Case No. 3551, she and the private respondent had a tenancy relationship, and that such finding could not be reversed by the ruling of the RTC, Branch 37 in Civil Case No. 4825. The petitioner posits that the court a quo erred in ordering the issuance of a writ of execution for her eviction, as it would disturb the tenancy relationship between her and the respondent.

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

The petition is denied for utter lack of merit.

First. The decision of Branch 37 of the RTC in Civil Case No. 4825 was affirmed *in*