

FIRST DIVISION

[G.R. No. 146082, July 30, 2004]

**MELCHOR CUSTODIO, PETITIONER, VS. ROSENDO F. CORRADO,
RESPONDENT.**

D E C I S I O N

QUISUMBING, J.:

For review on certiorari is the **Decision**^[1] dated July 28, 2000 of the Court of Appeals (CA) in CA-G.R. SP No. 45764, and its **Resolution**^[2] dated November 13, 2000 denying the motion for reconsideration. The CA affirmed the Decision^[3] dated September 9, 1997 of the Regional Trial Court (RTC) of Balayan, Batangas, Branch 9, in RTC Appeal Case No. 3301, which reversed the Decision^[4] dated August 19, 1996 of the Municipal Trial Court (MTC) of Calatagan, Batangas, dismissing respondent Rosendo F. Corrado's Complaint for Recovery of Possession and Ownership with Injunction and Damages, in Civil Case No. 120.

The facts and antecedent proceedings, as culled from records, are as follows:

On July 12, 1993, respondent Rosendo F. Corrado filed an ejectment^[5] case against petitioner Melchor Custodio with the MTC of Calatagan, Batangas, docketed as Civil Case No. 116. It was dismissed by the MTC on March 15, 1994 on the grounds that (1) it had no jurisdiction as the complaint is a possessory suit, (2) there was no *barangay* conciliation, and (3) the plaintiff failed to prove his case by preponderance of evidence. Upon appeal, the RTC of Balayan, Batangas affirmed the appealed decision docketed as RTC Appealed Case No. 3099.^[6]

On January 2, 1995, respondent filed with the same MTC another complaint for recovery of possession and damages against petitioner, docketed as Civil Case No. 120,^[7] and which is the core case subject of the present petition.

The Complaint avers that respondent Rosendo F. Corrado (then plaintiff) is the registered owner of a residential lot in Barangay Balitoc, Calatagan, Batangas covered by TCT No. T-21342. He claims that more than a year prior to the institution of the complaint, petitioner Melchor Custodio (then defendant), under a dubious claim of tenancy relationship with respondent's father, Crisanto Corrado and without his knowledge and consent, demolished his old residential house on the said lot and constructed a two-bedroom bungalow where petitioner and his family now reside.

In his Answer,^[8] petitioner Melchor Custodio alleged that he is a legitimate leasehold tenant of Crisanto Corrado since 1961 up to the present. He further claimed that respondent's father consented to the construction of the bungalow thirty (30) years ago when the subject lot was still owned by respondent's father

and before it was transferred to respondent. As affirmative defenses, he alleged *inter alia* that: (a) the complaint states no cause of action; (b) the required *barangay* conciliation under P.D. 1508^[9] was not complied with; and (c) the present complaint is now barred on the ground of *res judicata* and is violative of the rule on forum shopping.

The parties agreed on the following stipulation of facts during the pre-trial conference:

1. That Transfer Certificate of Title No. T-21342 covering the lot in question is in the name of plaintiff Rosendo Corrado;
2. That the defendant has never been a tenant of the plaintiff;
3. That the construction of the two-bedroom bungalow structure on the subject premises was without the consent of the plaintiff;
4. That the dismissal of Civil Case No. 116 which involved the same parties was by reason of alleged non-compliance with Presidential Decree No. 1508;
5. That subject property is located in Barangay Balitoc, Calatagan, and not in Barangay Gulod, Calatagan;
6. That no Barangay Certification is attached to the instant complaint pursuant to Presidential Decree No. 1508;
7. That the Decision of the Municipal Trial Court was appealed before the Regional Trial Court which was docketed as RTC Appealed Case No. 3099.^[10]

After trial, the MTC rendered judgment dismissing the Complaint, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered DISMISSING the complaint without pronouncement as to cost.

SO ORDERED.^[11]

The MTC initially resolved several issues and ruled *inter alia* that: (a) It has jurisdiction over the complaint which is an *accion publiciana* case although denominated as recovery of possession and ownership; (b) Prior compliance with *barangay* conciliation is not required because the parties reside in non-adjoining *barangays* of different municipalities with respondent residing in *Barangay* Binubusan, Municipality of Lian, Batangas, and petitioner residing in *Barangay* Balitoc, Calatagan and the complaint included a prayer for preliminary injunction and TRO; and (c) The filing of the present Civil Case No. 120 does not constitute forum shopping and the judgment in the previous ejectment case in Civil Case No. 116 will not amount to *res judicata* in the present case because there was no judgment on the merits in Civil Case No. 116. The MTC noted that there was no adjudication as to the rights of the parties, particularly the determination of their possessory rights in Civil Case No. 116 as its dismissal was anchored on

respondent's non-compliance with the required *barangay* conciliation under P.D. No. 1508 and on respondent's failure to allege the particular date of deprivation of possession required for the court to determine whether the case was filed within the one (1) year period.

However, the MTC finds that the petitioner's continued stay on respondent's property has factual and legal basis since evidence on record, such as milling tickets, convincingly show that petitioner has been a tenant of respondent's father, Crisanto Corrado, cultivating the latter's three (3)-hectare sugarcane land, including the subject lot, since 1961. It did not give credence to respondent's claim of ignorance to the tenancy relationship between petitioner and his father since the latest milling tickets showed that petitioner continued working on the subject lot even after it was transferred to respondent's name.

Respondent appealed the MTC decision to the RTC, which set aside and reversed the MTC decision, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered REVERSING and SETTING ASIDE the decision of the lower court dated August 12, 1996 and a new one entered declaring the plaintiff as the true and absolute owner of the residential lot in question; ordering the defendant to deliver the possession thereof to the plaintiff and to vacate the same, with costs against the defendant-appellee.

SO ORDERED. ^[12]

In reversing the MTC, the RTC found merit in respondent's allegation that petitioner cannot claim any right to possess respondent's lot on the premise that he is an alleged tenant of respondent's father. The RTC found it unacceptable for the MTC to rule that respondent is bound by the action of his father in allowing petitioner to construct a house on the subject lot and occupy the same. The RTC stressed that the parties had stipulated during the pre-trial that the subject lot is registered under the name of respondent and that petitioner is not a tenant of respondent. Further, respondent acquired the said lot in 1970 not from his father but from the government, which was the registered owner since 1909. Thus, respondent's father never acquired any right over the said land, hence, he has no right to transmit or alienate the land to anyone. The RTC further stated that petitioner's alleged possession, if any, would have been only by tolerance by the government and he would have acted promptly at the time respondent purchased the lot if he truly believed that he had the legal right over the lot. Finally, the RTC clarified that contrary to the MTC's ruling, the case is not merely an *accion publiciana*, where only physical possession is involved, but one of *accion reivindicatoria* because respondent claimed recovery of full possession as an absolute owner. The RTC concluded that since respondent is the absolute owner of the property, the MTC cannot bar him from recovering possession based on spurious authority granted by a third party who is not an owner.

Petitioner filed a petition for review in the Court of Appeals which affirmed the RTC decision. The dispositive portion of the decision reads as follows:

WHEREFORE, we AFFIRM the RTC decision dated September 9, 1997 in RTC Appeal Case No. 3301.

SO ORDERED.^[13]

The CA ruled that the principle of *res judicata* is inapplicable because there is no identity of causes of action between Civil Case Nos. 116 and 120. It stressed that the former is an ejectment suit which was dismissed for failure of respondent to state the date of deprivation of possession while the latter is for recovery of possession, and not ejectment. It also brushed aside the alleged tenancy relationship between petitioner and respondent, noting that the milling tickets were issued for respondent's father as the planter and petitioner as the tenant, but without any evidence showing that they referred to the subject lot and without any indication that petitioner was getting his share from the subject lot.

Petitioner filed a Motion for Reconsideration, which was denied by the Court of Appeals.

Hence, this petition submitting the following issues for our resolution:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT CIVIL CASE NO. 116 AND CIVIL CASE NO. 120 HAVE TWO (2) SEPARATE CAUSES OF ACTION DESPITE THE FACT THAT WHAT DETERMINES THE NATURE OR CAUSE OF THE ACTION IS NOT THE CAPTION OF THE COMPLAINT BUT THE MATERIAL ALLEGATIONS CONTAINED THEREIN.

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ALSO ERRED IN NOT TAKING INTO CONSIDERATION THE FACT THAT FOR RES JUDICATA TO APPLY, "SUBSTANTIAL" AND NOT ABSOLUTE IDENTITY OF CAUSES OF ACTION WILL SUFFICE.

III

WHETHER OR NOT THE PETITIONER HAS AMPLY ESTABLISHED BY A PREPONDERANCE OF EVIDENCE A TENANCY RELATIONSHIP WITH RESPONDENT AND HIS FATHER, CRISANTO CORRADO.^[14]

In our view, the relevant issues for our resolution are: (a) whether or not the principle of *res judicata* is applicable in this case; and (b) whether the alleged tenancy relationship between petitioner with respondent and the latter's father was established by preponderance of evidence.

On the first issue, petitioner insists that the principle of *res judicata* is applicable in this case since the material allegations in the complaints of Civil Case Nos. 116 and 120 would clearly reveal an identity of cause of action. Citing jurisprudence, it argued that what should control in determining the cause of action are the averments in both complaints seeking recovery of possession of the subject lot with the ultimate goal of dispossessing and ejecting petitioner from the property and restoring it to respondent and not the different captions of the two complaints. He