

## THIRD DIVISION

[ G.R. No. 141863, June 26, 2003 ]

**BASILIO RIVERA, TOMAS RIVERA, CORNELIO RIVERA AND  
LADISLAO RIVERA, PETITIONERS, VS. THE HONORABLE COURT  
OF APPEALS, AND SPOUSES DANILO DEATO AND DIVINA  
LEGASPI, RESPONDENTS.**

### D E C I S I O N

**CORONA, J.:**

Before us is a petition for review of the resolution<sup>[1]</sup> dated October 8, 1999 of the Court of Appeals<sup>[2]</sup> denying petitioners' motion for new trial on the ground that the document sought to be introduced is not a newly discovered evidence.

The facts of the case follow.

On December 28, 1993, petitioners Basiliso Rivera, Tomas Rivera, Cornelio Rivera and Ladislao Rivera filed before the Regional Trial Court of Valenzuela, Branch 75, a complaint docketed as Civil Case No. 4275-V-93 for quieting of title and ownership with cancellation of title against respondent spouses Danilo and Divina Deato.

In their complaint, petitioners claimed ownership by virtue of acquisitive prescription over Lot 7 of the Malinta Estate, situated in the province of Bulacan.

On the other hand, respondent spouses claimed that the said lot was bought as patrimonial property by Calixto Bautista from the Republic of the Philippines. When Calixto died, his daughter, Beatriz Bautista, inherited the same. Upon the death of Beatriz, her heirs had the said lot titled in their name and thereafter sold it to herein respondent Danilo Beata. Accordingly, TCT No. V-24759 was issued by the Registry of Deeds of Valenzuela, Metro Manila, in favor of the respondent spouses.

Respondent spouses contend that petitioners are the agricultural tenants of Lot 7 of the Malinta Estate whom they agreed to pay disturbance compensation just to vacate the property. Later on, however, petitioners changed their mind and decided to sue respondents, claiming ownership over the said property.

On April 28, 1995, the trial court rendered a decision<sup>[3]</sup> in favor of petitioners, the dispositive portion of which read:

WHEREFORE, premises considered the plaintiffs' claim having been established by the quantum of evidence which is preponderance of evidence, judgment is hereby rendered in favor of plaintiffs BASILISO RIVERA, TOMAS RIVERA, CORNELIO RIVERA and LADISLAO RIVERA and against defendants-spouses Danilo Deato and Divina Legaspi and thus declare:

- 1) the plaintiffs as the rightful owners of lot 7 of the Malinta Estate;
- 2) the titles and tax declarations issued to the defendants-spouses and their predecessors-in-interest commencing from Beatriz Bernabe as null and void and the cancellation of the same by the Register of Deeds of Valenzuela, Metro Manila and a new title be issue (sic) to herein plaintiffs;
- 3) the defendants to pay the plaintiffs the amount of Ten Thousand (P10,000.00) pesos by way of attorney's fees and Ten Thousand (P10,000.00) PESOS by way of moral damages.

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

Respondent spouses filed a motion for reconsideration. After petitioners filed their comment, the trial court reversed its earlier judgment and ruled in favor of respondent spouses, thus:

WHEREFORE, PREMISES CONSIDERED, and finding the instant Motion for Reconsideration to be in Order, another Order/Decision is hereby entered as follows: viz—

- 1) ORDERING, this Court's Decision dated April 28 1995, as vacated or is hereby set-aside, and a new one is hereby entered as follows: viz —
  - a) Declaring the defendants as the true and lawful owners of that parcel of land situated at Bignay, Valenzuela, Metro Manila, presently covered by or embraced in TCT no. V-24759 of the Registry of Deeds for Valenzuela, Metro Manila, with an area of 44,300 square meters, more or less;
  - b) Declaring defendants' present title over subject property, TCT V-24759 of the Registry of Deeds of Valenzuela, Metro Manila, as valid, legal and subsisting; and —
  - c) Declaring plaintiffs and all persons claiming rights under them, to respect the title of the defendants over subject property, and ordering said plaintiffs and all persons claiming rights under them, to peacefully surrender possession of subject landholding to defendants.

SO ORDERED.<sup>[5]</sup>

On appeal, the Court of Appeals affirmed the decision of the trial court in a decision<sup>[6]</sup> dated April 20, 1999. On May 14, 1999, petitioners filed a motion for reconsideration to which respondent spouses filed their comment. On July 1, 1999, Atty. Bienvenido M. Tagorio, for and in behalf of petitioners, filed a motion to enter appearance together with a motion for leave to file and admit motion for new trial. The respondent spouses filed their comment thereto which elicited a reply from the

petitioners. On October 8, 1999, the appellate court issued the assailed resolution, to wit:

xxx

xxx

xxx.

After a judicious consideration of the Appellant's motions, (a) Appellants' `Motion to Withdraw Motion for Reconsideration' is granted and their `Motion for Reconsideration' is deemed withdrawn. Anent Appellants' `Motion for Leave to file Motion for New Trial,' the same is granted. Acting on the `motion to admit motion for new trial,' the same is hereby denied. The document sought to introduced (sic) by the Appellants (a) is not a newly-discovered evidence; (b) contrary to and eschews Appellants' theory in the Court a quo and in this Court.

SO ORDERED.<sup>[7]</sup>

Petitioners then filed the instant petition for review under Rule 45 of the 1997 Rules of Civil Procedure raising a lone assignment of error:

## I

WHETHER OR NOT RESPONDENT HONORABLE COURT OF APPEALS ERR (SIC) IN CONCLUDING THAT THE GROUND RAISED BY PETITIONERS IN THEIR APPLICATION FOR NEW TRIAL IS BASED ON NEWLY DISCOVERED EVIDENCE AND NOT ON THE GROSS NEGLIGENCE OR INCOMPETENCE OF THEIR PREVIOUS COUNSEL TO PRESENT IN EVIDENCE THE ASSIGNMENT OF SALES CERTIFICATE NO. 668 DATED MAY 26, 1909 BEFORE THE COURT A QUO.<sup>[8]</sup>

After respondent spouses filed their comment and supplemental comment with leave of court, petitioners filed a reply. On January 5, 2001, petitioners filed a motion for leave to file supplemental petition with entry of appearance of Atty. Jose Reyes, another collaborating counsel for petitioners. Attached to the motion was petitioners' supplemental petition. On February 12, 2001, this Court issued a resolution<sup>[9]</sup> granting the motion and noting the supplemental petition which posits two additional assignments of errors, to wit:

## I

THE COURT OF APPEALS ERRED IN DENYING THE MOTION TO ADMIT MOTION FOR NEW TRIAL.

## II

THE COURT OF APPEALS ERRED IN UPHOLDING RESPONDENTS' TITLE TO THE LOT IN QUESTION DESPITE THE PATENT ERRORS THEREIN.<sup>[10]</sup>

Petitioners filed the present petition to question the resolution of the appellate court denying their motion for new trial. They allege that the appellate court erroneously ruled that their motion for new trial was premised on newly discovered evidence when in fact the basis of their contention was the excusable negligence committed by their previous counsel, Atty. Braulio Darum. They argue that Section 1, Rule 37 of the 1997 Rules of Civil Procedure considers excusable negligence as one of the