

## FIRST DIVISION

[ G.R. No. 139539, February 05, 2002 ]

**CEROFERR REALTY CORPORATION, PETITIONER, VS. COURT OF APPEALS AND ERNESTO D. SANTIAGO, RESPONDENTS.**

### DECISION

**PARDO, J.:**

#### The Case

This is an appeal *via certiorari*<sup>[1]</sup> from the decision of the Court of Appeals<sup>[2]</sup> dismissing petitioner's appeal from the order<sup>[3]</sup> of the Regional Trial Court, Branch 93, Quezon City, which dismissed petitioner's complaint for damages and injunction with preliminary injunction, as well as its resolution<sup>[4]</sup> denying reconsideration.<sup>[5]</sup>

#### The Facts

The facts, as found by the Court of Appeals,<sup>[6]</sup> are as follows:

"On March 16, 1994, plaintiff (Ceroferr Realty Corporation) filed with the Regional Trial Court, Quezon City, Branch 93, a complaint<sup>[7]</sup> against defendant Ernesto D. Santiago (Santiago), for "damages and injunction, with preliminary injunction." In the complaint, Ceroferr prayed that Santiago and his agents be enjoined from - claiming possession and ownership over Lot No. 68 of the Tala Estate Subdivision, Quezon City, covered by TCT No. RT-90200 (334555); that Santiago and his agents be prevented from making use of the vacant lot as a jeepney terminal; that Santiago be ordered to pay Ceroferr P650.00 daily as lost income for the use of the lot until possession is restored to the latter; and that Santiago be directed to pay plaintiff Ceroferr moral, actual and exemplary damages and attorney's fees, plus expenses of litigation.

"In his answer, defendant Santiago alleged that the vacant lot referred to in the complaint was within Lot No. 90 of the Tala Estate Subdivision, covered by his TCT No. RT-78 110 (3538); that he was not claiming any portion of Lot No. 68 claimed by Ceroferr; that he had the legal right to fence Lot No. 90 since this belonged to him, and he had a permit for the purpose; that Ceroferr had no color of right over Lot No. 90 and, hence, was not entitled to an injunction to prevent Santiago from exercising acts of ownership thereon; and that the complaint did not state a cause of action.

"In the course of the proceedings, an important issue metamorphosed as a result of the conflicting claims of the parties over the vacant lot actually used as a jeepney terminal - the exact identity and location thereof.

There was a verification survey, followed by a relocation survey, whereby it would appear that the vacant lot is inside Lot No. 68. The outcome of the survey, however, was vigorously objected to by defendant who insisted that the area is inside his lot. Defendant, in his manifestation dated November 2, 1994, adverted to the report of a geodetic engineer. Mariano V. Flotildes, to the effect that the disputed portion is inside the boundaries of Lot No. 90 of the Tala Estate Subdivision which is separate and distinct from Lot No. 68, and that the two lots are separated by a concrete fence.

"Because of the competing claims of ownership of the parties over the vacant lot, it became inevitable that the eye of the storm centered on the correctness of property boundaries which would necessarily result in an inquiry as to the regularity and validity of the respective titles of the parties. While both parties have been brandishing separate certificates of title, defendant asserted a superior claim as against that of the plaintiff in that, according to defendant, his title has been confirmed through judicial reconstitution proceedings, whereas plaintiff's title does not carry any technical description of the property except only as it is designated in the title as Lot No. 68 of the Tala Estate Subdivision.

"It thus became clear, at least from the viewpoint of defendant, that the case would no longer merely involve a simple case of collection of damages and injunction – which was the main objective of the complaint - but a review of the title of defendant vis-à-vis that of plaintiff. At this point, defendant filed a motion to dismiss the complaint premised primarily on his contention that the trial court cannot adjudicate the issue of damages without passing over the conflicting claims of ownership of the parties over the disputed portion.

"On May 14, 1996, the trial court issued the order now subject of this appeal which, as earlier pointed out, dismissed the case for lack of cause of action and lack of jurisdiction. The court held that plaintiff was in effect impugning the title of defendant which could not be done in the case for damages and injunction before it. The court cited the hoary rule that a Toren's certificate of title cannot be the subject of collateral attack but can only be challenged through a direct proceeding. It concluded that it could not proceed to decide plaintiff's claim for damages and injunction for lack of jurisdiction because its judgment would depend upon a determination of the validity of defendant's title and the identity of the land covered by it.

"From this ruling, plaintiff appealed to this court insisting that the complaint stated a valid cause of action which was determinable from the face thereof, and that, in any event, the trial court could proceed to try and decide the case before it since, under present law, there is now no substantial distinction between the general jurisdiction vested in a regional trial court and its limited jurisdiction when acting as a land registration court, citing *Ignacio v. Court of Appeals* 246 SCRA 242 (1995)."

On March 26, 1999, the Court of Appeals promulgated a decision dismissing the appeal.<sup>[8]</sup> On May 13, 1999, petitioner filed with the Court of Appeals a motion for reconsideration of the decision.<sup>[9]</sup> On July 29, 1999, the Court of Appeals denied petitioner's motion for reconsideration for lack of merit.<sup>[10]</sup>

Hence, this appeal.<sup>[11]</sup>

### The Issues

The issues are: (1) whether Ceroferr's complaint states a sufficient cause of action and (2) whether the trial court has jurisdiction to determine the identity and location of the vacant lot involved in the case.

### The Court's Ruling

We grant the petition.

The rules of procedure require that the complaint must state a concise statement of the ultimate facts or the essential facts constituting the plaintiff's cause of action. A fact is essential if it cannot be stricken out without leaving the statement of the cause of action inadequate. A complaint states a cause of action only when it has its three indispensable elements, namely: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages.<sup>[12]</sup> If these elements are not extant, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action.<sup>[13]</sup>

These elements are present in the case at bar.

The complaint<sup>[14]</sup> alleged that petitioner Ceroferr owned Lot 68 covered by TCT No. RT-90200 (334555). Petitioner Ceroferr used a portion of Lot 68 as a jeepney terminal.

The complaint further alleged that respondent Santiago claimed the portion of Lot 68 used as a jeepney terminal since he claimed that the jeepney terminal was within Lot 90 owned by him and covered by TCT No. RT-781 10 (3538) issued in his name.

Despite clarification from petitioner Ceroferr that the jeepney terminal was within Lot 68 and not within Lot 90, respondent Santiago persisted in his plans to have the area fenced. He applied for and was issued a fencing permit by the Building Official, Quezon City. It was even alleged in the complaint that respondent- Santiago was preventing petitioner Ceroferr and its agents from entering the property under threats of bodily harm and destroying existing structures thereon.

A defendant who moves to dismiss the complaint on the ground of lack of cause of action, as in this case, hypothetically admits all the averments thereof. The test of sufficiency of the facts found in a complaint as constituting a cause of action is