

## FIRST DIVISION

[ G.R. No. 139603, July 14, 2000 ]

**CONCHITA QUINAO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, REP. BY THE OFFICE OF THE SOLICITOR GENERAL, AND FRANCISCO DEL MONTE, RESPONDENTS.**

### R E S O L U T I O N

**KAPUNAN, J.:**

This is a petition for review on *certiorari* seeking the reversal of the Decision, dated 14 January 1999, of the Court of Appeals in CA-G.R. CR No. 19412 which affirmed the decision of the Regional Trial Court (RTC), Eighth Judicial Region, Branch 21, Laoang, Northern Samar finding herein petitioner Conchita Quinao and Salvador Cases guilty of the crime of Usurpation of Real Property. Likewise sought to be reversed is the Resolution, dated 30 June 1999, of the appellate court denying petitioner's motion for reconsideration.

The Information filed against petitioner and Cases read as follows:

That on or about the 2nd day of February, 1993, at about 9:00 o'clock in the morning, more or less, at Sitio Bagacay, Bgy. Petong, Lapinig, Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to gain, with the use of force and intimidation, did, then and there wilfully, unlawfully and feloniously usurped [sic] and occupied [sic] a real property owned by FRANCISCO F. DEL MONTE, and while there gathered 12,000 coconuts and converted it into copra [sic] and sold the same in the amount of P14,580, to the damage and prejudice to the said owner in the total amount of FOURTEEN THOUSAND FIVE HUNDRED EIGHTY (P14,580.00) PESOS, Philippine Currency.

CONTRARY TO LAW.<sup>[1]</sup>

At the arraignment, both accused pleaded not guilty. Trial ensued. The facts established during the trial are as follows:

As borne out by the evidence, both the accused and private complainant are claiming ownership over the land in question. Private complainant Francisco Delmonte submitted and offered in evidence Tax Declaration No. 1202 (Exh. "D") in the name of Petre Delmonte, the predecessor-in-interest of complainant. This Tax Declaration No. 1202 cancels Tax Declaration No. 18612 which shows that the land covered by Tax Declaration No. 1202 is the same land litigated and awarded to the predecessor-in-interest of the complainant in Civil Case No. 3561. The decision in Civil Case No. 3561 shows that the land being claimed by the accused was already litigated and awarded to the parents of the

complainant in Civil Case No. 3561.

The accused-appellant, on the other hand, presented Tax Declaration No. 1195 (Exh. "1") in the name of Lorenzo Cases Leoniso dated January 25, 1993. He alleged that the land being claimed by the complainant in the present criminal case is different from the land litigated in Civil Case No. 3561 and that the land subject of Civil Case No. 3561 which came from Angel Pelison is now in the possession of the complainant.

The parties presented witnesses during the hearing of the case to buttress their claims. Complainant's witness Bienvenido Delmonte declared that on February 2, 1993 at around 9 o'clock in the morning while he was busy working in the agricultural land which he owns in common with complainant Francisco Delmonte, accused Salvador Cases and Conchita Quinao, together with their other close relatives suddenly appeared and while there, with the use of force, violence and intimidation, usurped and took possession of their landholding, claiming that the same is their inheritance from their ascendants and while there, accused immediately gathered coconuts and made them into copra. Complainant was forcibly driven out by the accused from their landholding and was threatened that if he will try to return to the land in question, something will happen to him. Complainant was thus forced to seek assistance from the Lapinig Philippine National Police.

Complainant's witness further declared that the actual primitive owner of the land in question was Angel Pelison but the land was purchased by his grandfather Petre Delmonte. The land is situated at Sitio Bagacay, Brgy. Potong, Lapinig, N. Samar with an area of 9 ½ hectares, bounded on the East by the properties of Roman Vernas and Marcelino Delmonte; on the North by Dimas Moscosa; on the West by Alcantara and on the South by Bagacay group (tsn, pp. 31-32, April 20, 1994)

Accused Salvador Cases and Conchita Quinao testified for the defense. They claimed that they are the grandchildren of Lorenzo Cases; that during the lifetime of their grandfather, he acquired the real property in question and declared the same in his name under Tax Declaration No. 1195 (Exh. "1"); that the land has an area of 6 hectares, 34 centares and 28 ares and is devoted to rice and coconut; that they are in actual possession of the land and paid realty taxes thereon; that the father of accused Conchita Quinao was Pedro Cases, the son of Lorenzo Cases; that the land is located in Brgy. Potong, Lapinig, Northern Samar; and that the boundaries are as follows: on the North: Dimas Moscosa; on the East: Petre Delmonte; on the South: Ananias Delmonte; and on the West: Bagacay River.<sup>[2]</sup>

The trial court rendered judgment the dispositive portion of which reads as follows:

WHEREFORE, premises considered, the Court hereby finds both accused guilty of the crime of Usurpation of Real Rights in Property, defined and penalized under Art. 312 of the Revised Penal Code, beyond reasonable doubt and hereby sentences both of them jointly and severally, to pay a fine in the amount of One Hundred Seventy Four Thousand and Nine

Hundred Sixty (P174,960.00) Pesos which amount is equivalent to the gain which said accused have obtained in a period of almost three (3) years from the time they forcibly took possession of this land belonging to Francisco Delmonte computed at the rate of P14,580.00 per quarter proceeds from the produce of the land as alleged in the Information.

The accused are further sentenced not to enter or intrude upon this property rightfully adjudged to belong to Francisco Delmonte, private complainant herein and they are ordered under pain of imprisonment for Contempt of Court, to Cease and Desist forever from disturbing or molesting the peaceful and quiet possession and ownership of the herein private offended party over the property subject of litigation. The Chief of Police of the PNP, Lapinig, Northern Samar, is hereby ordered to assist the private offended party in his possession of the herein property and see to it that he is not disturbed or molested in such state, and in implementing this directive, the Chief of Police may, in his discretion, use reasonable force necessary to carry out this decision. Let a copy of this decision be furnished the Chief of Police of Lapinig, N. Samar.

No pronouncement as to costs.

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

Upon a notice of death filed only on 25 September 1997, it was learned that accused Cases died on 9 April 1995.

Petitioner appealed her conviction to the CA. The appellate court, however, affirmed the decision of the trial court. Petitioner filed a motion for reconsideration thereof but the CA denied the same.

Before this Court, petitioner assails the decision of the CA raising the following issues:

## **I**

WHETHER OR NOT THE ACCUSED-PETITIONER WHO IS A WOMAN OF AN ADVANCE AGE COULD BE HELD LIABLE OF THE CRIME OF USURPATION OF REAL PROPERTY ON THE BASIS OF THE BARE ALLEGATION OF CONSPIRACY AND WHICH CONCLUSION WAS BASED ON SPECULATIONS, SURMISES AND CONJECTURES;

## **II**

WHETHER OR NOT THE ALLEGED FORCE AND INTIMIDATION WHICH TOOK PLACE SUBSEQUENT TO THE ALLEGED ENTRY INTO THE PROPERTY WILL SUFFICE TO CONVICT THE ACCUSED-PETITIONER OF THE CRIME OF USURPATION OF REAL PROPERTY;

## **III**

WHETHER OR NOT THE ACCUSED-PETITIONER WHO CLAIMS TO BE