

## THIRD DIVISION

[ G.R. No. 97761, April 14, 1999 ]

**AGUEDA DE VERA, MARIO DE LA CRUZ, EVANGELINE DELA CRUZ,  
AND EDRONEL DE LA CRUZ, PETITIONERS, VS. HON. COURT OF  
APPEALS, AND RICARDO RAMOS, RESPONDENTS.**

### D E C I S I O N

#### **PURISIMA, J.:**

At bar is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, seeking to reverse and set aside the Decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> in CA-G.R. CV No. 21507 affirming with modification the Decision<sup>[3]</sup> dated August 2, 1988 of the Regional Trial Court, Branch 19,<sup>[4]</sup> Cauayan, Isabela, in Civil Case No. Br. II-1861.

From the records on hand, it appears that:

On January 14, 1983, private respondent Ricardo Ramos filed a *Complaint*<sup>[5]</sup> against the herein petitioners for recovery of property with damages, docketed as Civil Case No. Br II-1861 before the said court of origin. On June 29, 1983, an Amended Complaint<sup>[6]</sup> was presented the pertinent portion of which alleged:

"xxx

*2. That the plaintiff is the legal and absolute owner of a certain parcel of land known as Lot 2, H-4-617, and particularly described as follows:*

*'Bounded on the NE., by Road; on the SW, by Provincial Road; and on the W., by National Road. containing an area of 3,670 square meters, more or less.'*

*his title thereto being evidenced by Original Certificate of Title No. P-5619 of the Register of Deeds of Isabela;*

*3. That the defendants are occupying a triangular portion of the above-described property containing an area of 22 square meters, more or less, and which is bounded as follows:*

*'On the NE., by the Road; on the SE., by Lot 3841-B of the subdivision plan, Psd 2-02-013907'*

*wherein they have constructed a house of strong and permanent materials this year 1983 after removing their previous building of light materials in January or February of 1970;*

*4. That the plaintiff has demanded that the defendants remove their*

improvement thereon and vacate the *said portion*, ... *but the defendants have refused and failed, without any just or lawful cause to do so, to the present time; xxx*"

In their *Answer*,<sup>[7]</sup> the herein petitioners theorized, *inter alia*, that they have been in possession not only of 22 square meters but 70 square meters of land through their predecessor-in-interest, Teodoro de la Cruz (*husband of defendant-appellant Agueda De Vera and father of the rest of the defendants-appellants*) and subsequently by themselves, as owners, before 1956; that said 70 square meter area occupied by them is a portion of Lot 7005, Cad 211, over which their predecessor-in-interest, Teodoro de la Cruz, had, during his lifetime, a pending *Miscellaneous Sales Application* which was given due course and favorably recommended by the District Land Officer for Isabela to the Director of Lands; that Teodoro de la Cruz also declared the said land for taxation purposes and after his death, by his heirs, and that plaintiff-appellee's cause of action is already barred by prescription and/or laches.

During the pre-trial conference on November 15, 1983, as agreed upon by the parties, the trial court appointed the Chief of the Survey Party of the Bureau of Lands in Cauayan, Isabela, as Commissioner of the court to conduct a relocation survey of subject property and to indicate in the survey returns or commissioner's report whether or not the land in dispute forms part of the property and road-right-of-way of the private respondent.

On April 30, 1984, the said Commissioner submitted his *Report On The Result Of The Relocation Survey*,<sup>[8]</sup> relevant portion of which, stated:

*"III. RESULT OF THE RELOCATION SURVEY*

*Attached herewith, which is made part of this report, is a Relocation Survey Plan No. 2-02-000160 duly approved by the Regional Director, Region II, Bureau of Lands, Tuguegarao, Cagayan, showing the result of the relocation survey, to wit:*

*1. Area bounded by black lines designated as Lot 9841-A, Psd-2-02-013907 a portion of Lot 7004, Cad. 211 with an area of 22 Sq. Meters represents the land being covered by Transfer Certificate of Title No. T-133705 of the Plaintiff Ricardo Ramos;*

*x x x*

*4. Areas designated as portions 'A,' 'B' and 'C,' represents the land in question between the parties in Civil Case No. Br. II-1861, which portions are respectively described, to wit:*

*a. Portion 'A' with an area of 51 Square Meters, which is a portion of Lot 7005, Cad. 211, represents the land being claimed by the defendants Agueda de Vera, Et al, said area allegedly being covered by Miscellaneous Sales Application of their predecessor-in-interest the late Teodoro dela Cruz;*

*b. Portion 'B' with an area of 5 Square Meters, represents that part of*

*Lot 9841-B, Psd-2-02-013905 of Ricardo Ramos, being occupied by the house of defendants Agueda de Vera, Et al;*

*c. Portion `C' with an area of 18 Square Meters, represents that part of Lot 9841-B, Psd-2-02-013907 of Ricardo Ramos, being occupied by the house of defendants, Agueda de Vera, Et al;*

*5. Portion `A' being a part of Lot 7005, Cad. 211, is separate and distinct from the 22 Square Meters lot covered by Transfer Certificate of Title No. T-133705 of the plaintiff Ricardo Ramos, said 22 Sq. Meters lot being a part of Lot 7004, Cad. 211;*

*x x x*

*7. That the adjoining boundary of Lot 9841-A, Psd-2-02-013907 on the Northwest, which appears as National Road in Transfer Certificate of Title No. T-133705 is erroneous, considering that there is still a gap (designated as Portion `A' in the attached Relocation Plan) between said Lot 9841-A and that of the 60 meters National Road-right-of-way;*

*x x x"*

On October 24, 1984, the private respondent sent in his *Opposition*<sup>[9]</sup> to the aforesaid *Report*, branding the same as erroneous. On March 4, 1985, after the filing of private respondent's *Reply*<sup>[10]</sup> to petitioners' *Rejoinder*,<sup>[11]</sup> the court of origin issued an *Order*,<sup>[12]</sup> holding thus:

*"Since the purpose of the appointment of the Court Commissioner is to determine whether or not the area occupied by the defendants is within the titled property of the plaintiff, the relocation of the land in question became imperative. As a matter of fact, the record shows that both parties agreed to said relocation (See order of November 15, 1983). It must be noticed that the report of the Commissioner is adverse to the plaintiff as the former's findings show that only a portion of 22 square meters of the plaintiff's lot is occupied by the defendants and that between the National Road and the plaintiff's property is an area of 51 square meters (portion A) which the Commissioner found to be part of Lot 7005, Cad. 211.*

*Inasmuch as the plaintiff was given the full opportunity to check the accurateness of Commissioner's Report and there being no proof adduced by him that the same is erroneous, except the blue print plan of the subdivision survey Psd-2-02-013907, the execution of which, the defendants had no participation whatsoever, the Court has no other alternative but to reject the plaintiff's objection to said report.*

*WHEREFORE, in view of the foregoing considerations and finding no error in the report of the Commissioner, the Court hereby approves the same.*

*SO ORDERED.*"(Underline supplied)

After trial on the merits, or on August 2, 1988, to be precise, the same trial court promulgated its Decision,<sup>[13]</sup> the decretal portion of which is to the following effect:

*"WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:*

*(1) DECLARING the plaintiff the owner of all lands adjoining Lot 9841-A in the West up to the National Road, and ORDERING the defendants, their agents, representatives, or any person or persons acting on their authority, to vacate the same and to deliver the possession thereof to the plaintiff;*

*(2) ORDERING the defedants (sic) to remove, at their expense, all improvements they have constructed or erected thereon within thirty (30) days from the finality of this decision;*

*(3) ORDERING the defendants, jointly and severally, to pay the plaintiff a monthly rent of P273.70 from April 27, 1981, and an additional P724.70 a month from receipt of this decision until the possession of saidland (sic) is delivered to the plaintiff;*

*(4) ORDERING the defendants, jointly and severally, to pay the plaintiff the sum of P5,000.00 as attorney's fees; and*

*(5) ORDERING the defendants, jointly and severally, to pay the costs.*

*SO ORDERED."*

Not satisfied with the judgment below, petitioners elevated the case to the Court of Appeals, arguing, among others, that: (1) the trial court erred in not dismissing the complaint on the ground of laches; (2) the trial court erred in holding that defendants-appellants are possessors in bad faith and (3) that defendants-appellants cannot be made liable to plaintiff-appellee for rental payments for the use of the disputed property, for attorney's fees and the costs of suit.

On March 21, 1991, the Court of Appeals decided the case, modifying the Decision below and disposing thus:

*"CONFORMABLY TO THE FOREGOING, the judgment appealed from is hereby **MODIFIED**, dismissing plaintiff-appellee's complaint as regards Portion "A", consequently deleting the monthly rents decreed by the lower court in favor of plaintiff-appellee as regards said portion, and is AFFIRMED in all other respects.*

*No pronouncement as to costs.*

*SO ORDERED."*

Undaunted, petitioners have come to this Court via the present petition; contending that:

*"THE DECISION DATED 13 MARCH 1991 (ANNEX `A') RENDERED WITH GRAVE ABUSE OF DISCRETION BY RESPONDENT HONORABLE COURT OF*

APPEALS, INsofar AS IT AFFIRMS THE DECISION DATED 02 AUGUST 1988 OF THE LOWER COURT, WAS PASSED ON A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT, CONSIDERING THAT:

I.

LACHES CAN DEFEAT THE TITLE OF PRIVATE RESPONDENT OVER THE PROPERTIES DESCRIBED BY RESPONDENT HONORABLE COURT OF APPEALS AS PORTIONS "B" AND "C" OF THE DISPUTED PROPERTY CONSIDERING THAT SAID PRIVATE RESPONDENT HAD KNOWLEDGE OF THE PRESENCE OF THE PETITIONERS ON SAID PORTIONS OF THE PROPERTY EVEN BEFORE HE APPLIED IN 1947 FOR A HOMESTEAD PATENT THEREFOR.

II.

PETITIONERS WERE NOT POSSESSORS IN BAD FAITH OF PORTIONS "B" AND "C" OF THE DISPUTED PROPERTY: THUS, THEY CANNOT BE MADE LIABLE TO PRIVATE RESPONDENT FOR THEIR USE THEREOF."

The pivotal issue for determination here is: whether or not the Court of Appeals erred in adjudging the herein petitioners as possessors and builders in bad faith of Portions "B" and "C" of the property under controversy.

Germane records on hand disclose that on September 20, 1947, private respondent Ricardo Ramos filed a homestead application for the parcel of land in litigation here. His Homestead Application No. 4-617 was approved by the District Land Officer on November 22, 1947. In 1949, the said private respondent had fully complied with the cultivation and residence requirements of the Public Land Act. Thus, on **December 15, 1955**, Homestead Patent No. V-62617<sup>[14]</sup> was issued to homestead applicant Ricardo Ramos, on the basis of which Original Certificate of Title No. P-5619<sup>[15]</sup> was issued by the Register of Deeds of Isabela, covering an area of 9 hectares, 28 acres and 20 centares.

After the issuance of his Homestead Patent No. V-62617, Ricardo Ramos brought a complaint for recovery of possession against several people before the then Court of First Instance of Isabela, docketed as Civil Case No. Br. II-162, entitled "*Ricardo Ramos vs. Eleuterio Viernes, et al.*" Therein, a decision for the ejectment of the said defendants was rendered.<sup>[16]</sup>

However, a protracted litigation between Ricardo Ramos and the defendants in Civil Case No Br. II-162, led by Jose Ganadin, ensued with the latter averring that Homestead Patent No. V-62617 and Original Certificate No. P-5619 were obtained in violation of Section 19 of the Public Land Law, as amended by Act No. 456, and consequently, null and void. The case eventually reached this Court which, on **January 27, 1981**, came out with a decision adjudging the validity of the title of the private respondent, Ricardo Ramos.<sup>[17]</sup>

On **April 27, 1981**, private respondent wrote petitioners reminding them that their