

THIRD DIVISION

[G.R. No. 95748, November 21, 1996]

ANASTACIA VDA. DE AVILES, ET AL., PETITIONERS, VS. COURT OF APPEALS AND CAMILO AVILES, RESPONDENTS.

DECISION

PANGANIBAN, J.:

Is the special civil action of Quieting of Title under Rule 64 the proper remedy for settling a boundary dispute? Did the respondent Court^[1] commit a reversible error when it did not declare the respective rights of the parties over the disputed property in said action?

These are the key issues raised in this petition to review on certiorari the Decision^[2] of the respondent Court promulgated on September 28, 1990 in CA-G.R. CV No. 18155, which affirmed the decision dated December 29, 1987 of the Regional Trial Court, Branch 38,^[3] Lingayen, Pangasinan, dismissing a complaint for quieting of title.

The Facts

In an action for quieting of title commenced before the aforementioned trial court, the following facts, "stripped of unnecessary verbiage", were established by the respondent Court:^[4]

"PLAINTIFFS aver that they are the actual possessors of a parcel of land situated in Malawa, Lingayen, Pangasinan, more particularly described as fishpond, cogonal, unirrigated rice and residential land, bounded on the N by Camilo Aviles; on the E by Malawa River, on the S by Anastacio Aviles and on the W by Juana and Apolonio Joaquin, with an area of 18,900 square meters and declared under Tax Declaration No. 31446. This property is the share of their father, Eduardo Aviles and brother of the defendant, in the estate of their deceased parents, Ireneo Aviles and Anastacia Salazar.

SINCE 1957, Eduardo Aviles was in actual possession of the afore-described property. In fact, the latter mortgaged the same with the Rural Bank and Philippine National Bank branch in Lingayen. When the property was inspected by a bank representative, Eduardo Aviles, in the presence of the boundary owners, namely, defendant Camilo Aviles, Anastacio Aviles and Juana and Apolonio Joaquin(,) pointed to the inspector the existing earthen dikes as the boundary limits of the property and nobody objected. When the real estate mortgage was foreclosed, the property was sold at public auction but this was redeemed by plaintiffs' mother and the land was subsequently transferred and declared in her name.

ON March 23, 1983, defendant Camilo Aviles asserted a color of title over the northern portion of the property with an area of approximately 1,200 square meters by constructing a bamboo fence (thereon) and moving the earthen dikes, thereby molesting and disturbing the peaceful possession of the plaintiffs over said portion.

UPON the other hand, defendant Camilo Aviles admitted the agreement of partition (Exh. '1') executed by him and his brothers, Anastacio and Eduardo. In accordance therewith, the total area of the property of their parents which they divided is 46,795 square meters and the area allotted (sic) to Eduardo Aviles is 16,111 square meters more or less, to Anastacio Aviles is 16,214 square meters more or less, while the area allotted to defendant Camilo Aviles is 14,470 square meters more or less. The respective area(s) allotted to them was agreed and measured before the execution of the agreement but he was not present when the measurement was made. Defendant agreed to have a smaller area because his brother Eduardo asked him that he wanted a bigger share because he has several children to support. The portion in litigation however is part of the share given to him in the agreement of partition. At present, he is only occupying an area of 12,686 square meters which is smaller than his actual share of 14,470 square meters. Tax Declarations Nos. 23575, 481 and 379 covering his property from 1958 (Exhs. '7', '8' and '9') show that the area of his property is 14,470 square meters. The riceland portion of his land is 13,290 square meters, the fishpond portion is 500 square meters and the residential portion is 680 square meters, or a total of 14,470 square meters. That the topography of his land is not the same, hence, the height of his pilapils are likewise not the same."

In its decision dated December 29, 1987, the trial court disposed of the case thus:
[5]

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering the parties to employ the services of a Land Surveyor of the Bureau of Lands, Region I, San Fernando, La Union, to relocate and determine the extent and the boundary limit of the land of the defendant on its southern side in order that the fourteen thousand four hundred seventy (14,470) square meters which is the actual area given to the defendant be determined;
2. Ordering the complaint dismissed for lack of basis and merits;
3. Ordering the plaintiffs to pay the defendant the sum of two thousand (P2,000.00) pesos as attorney's fees and to further pay the costs of the proceedings;
4. All other claims are denied for lack of basis."

Dissatisfied with the trial court's decision, petitioners appealed to the respondent appellate Court. In its now-assailed Decision, the Court of Appeals affirmed in part

the decision of the trial court, reasoning that a special civil action for quieting of title is not the proper remedy for settling a boundary dispute, and that petitioners should have instituted an ejectment suit instead. The dispositive portion of the impugned Decision reads as follows:

"WHEREFORE, in view of the foregoing, the decision dated December 29, 1987 dismissing the complaint is hereby AFFIRMED but without necessarily agreeing with the *ration d'être* (sic) proffered by the Court *a quo*. The portion thereof ordering the parties to employ the service of a land surveyor to relocate and determine the extent and boundary limit of the land of the defendant on its southern portion in order that the fourteen thousand four hundred seventy (14,470) square meters which is the actual area given to the defendant be determined is hereby REVERSED and SET ASIDE. Costs against plaintiffs-appellants."

The Issues

Disagreeing with the respondent Court, petitioners now raise the following issues:^[6]

"a. Whether or not the Hon. Court of Appeals is correct when it opined that the xxx complaint for quieting of title instituted by the petitioners against private respondent before the court *a quo* is not the proper remedy but rather, it should be a case for ejectment (sic).

b. Whether or not the Hon. Court of Appeals is correct in rendering a decision, now subject of the instant petition, without fully determining the respective rights of the herein parties."

Petitioners deem to be "without basis" the respondent Court's holding that quieting of title is not the proper remedy in the case *a quo*. They assert that private respondent is occupying the disputed lot because he claimed it to be part of his share in the partitioned property of his parents, whereas petitioners are claiming the said lot as part and parcel of the land allotted to Eduardo Aviles, petitioners' predecessor-in-interest. They contend that they have been occupying the aforesaid land as heirs of Eduardo Aviles in "open, actual, continuous, peaceful, public and adverse (sic) (possession) against the whole world." Further, they argue that, if indeed the disputed lot belonged to private respondent, why then did it take him "almost 26 long years from June 27, 1957 or until March 27, 1983" to assert his ownership; why did he not "assert his ownership" over the property when Eduardo Aviles was still alive; and why did he not take any "action" when the mortgage over the disputed property was foreclosed?^[7]

Private respondent corrects the petitioners' claim in regard to the date when he had the bamboo fence constructed. He alleges that the petitioners maliciously concocted the story that private respondent had purportedly encroached some 1,200 meters on their property when, in fact, "he was merely repairing the old bamboo fence existing where it had always been since 1957."^[8]

The Court's Ruling

First Issue: Quieting of Title Not Proper Remedy For Settling Boundary Dispute