

TWENTY-SECOND DIVISION

[CA-G.R. SP NO. 04902-MIN, February 27, 2015]

**SPOUSES FACUNDO ARCULAR AND LILY ARCULAR, AND
NALICION P. SABALO, PETITIONERS, VS. FORCIPEDA S.
MAISOG, BELTRAN SABALO, AZUCENA S. CONSIGNA, EULEJARDO
SABALO, FELICIDARIA S. LERAY, AND GLECERIA S. OCON,
RESPONDENTS.**

D E C I S I O N

CAMELLO, J.:

This land dispute reached the court below by means of respondents' verified complaint for Recovery of Possession, Quieting of Title, and Damages before the Municipal Circuit Trial Court of Socorro-Dapa^[1] against the petitioners.

Reduced to essentials, the case antecedents are as follows:

The respondents (plaintiffs *a quo*), who are the heirs of Januaria Tomon, claim to be the owners, by way of succession, of the subject property allegedly in possession of the petitioners (defendants *a quo*). The disputed property is covered by Tax Declaration No. 1373 and described as follows:

A parcel of land situated in Songkoy, Socorro, Surigao del Norte, bounded on the N. by River, on the S, by Spring, on the E. by Padre Ramirez, and on the W. by Spring, containing an area of 2.000 has. More or less covered by Tax Dec. No. 1373 for the year 1969 in the name of Ramon Tomon and assessed at P440.00.^[2]

Upon Ramon Tomon's death, ownership of the land passed on to his children Pablo, Mederio, Lodegario, and Januaria. When Januaria passed away, her share to the property was inherited by her children, the respondents, Forcipeda, Beltran, Azucena, Eulejardo, Felicidadaria, and GlecERIA (plaintiffs *a quo*). The respondents alleged that they acquired the rest of the property through sale from the other co-owners.

In 1991, petitioners spouses Facundo and Lily Arcular requested Lodegario, that they be allowed to occupy his part of the property. Presumably, Lodegario acceded to the request. The other petitioner, Nalicion Sabalo, wife of Lodegario followed and occupied a separate portion of the property.^[3]

Lodegario died in 1996. The respondents demanded for the return of the property, but the petitioners refused. Since demands to vacate fell on deaf ears, and

subsequent efforts toward amicably settling the dispute through the Barangay Justice System proved futile,^[4] respondents instituted on 30 April 1999 the complaint^[5] for recovery of possession and quieting of title against the petitioners with the Municipal Circuit Trial Court [MCTC] of Dapa-Socorro. The case was docketed as Civil Case No. 226.

On 10 May 1999, petitioners filed a motion to dismiss^[6] the complaint upon the grounds that indispensable parties were not joined as party plaintiffs and that the barangay certification was fictitious for the case has long been settled.

Respondents moved to declare petitioners in default reasoning that the grounds relied upon by the petitioners were not grounds for a motion to dismiss under Section 1, Rule 16 of the Rules of Court.^[7] In addition, respondents pointed out that the motion must be treated as a mere scrap of paper for its failure to set the date of hearing. Thus, the motion did not suspend the running of the period to file answer.

In an Order^[8] dated 18 September 1999, petitioners were declared in default for failure to file an answer and respondents were allowed to present evidence *ex parte*.

On 11 March 2000,^[9] the trial court, on motion of the petitioners, lifted the order of default and the petitioners filed their answer,^[10] accordingly.

In their answer, petitioners denied the material allegations of the complaint and alleged that they are the actual owners and possessors of the disputed property for many years. To prove that they have been in actual possession of the disputed property, the petitioners submitted in evidence the following documents:

1. 1. Tax Declaration No. 262^[11] in the name of petitioner's predecessor-in-interest Onofre Arcular;
2. 2. A photocopy of the agreement between Lodegario Sabalo and Facundo Arcular regarding the boundary line between their properties with a sketch of the area.¹²
3. 3. Affidavit of one Nalecion Sabalo to the effect that she was returning to the respondents the subject property that was previously donated by the family of the respondents to Lodegario Sabalo.^[13]

On 20 January 2010, the MCTC resolved the case in this wise:

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From the foregoing evidence presented by the plaintiffs and the defendants, it would show that plaintiffs have the right to the property in question having successfully established their possession and ownership as early as 1928. This fact was supported by their documentary evidence presented in Court and as stated in their testimonial evidence. While it is true that Onofre Arcular has a landholding adjacent to the plaintiffs, evidence suggests that some of their property or portion of it were

already sold by the heirs of Arcular. Defendant Facundo Arcular who happened to apply and was issued a title in his name however cannot be disturbed in his possession having acquired title to the portion of Onofre Arcular's property. Excess to the titled property of Facundo will be turned over to the plaintiffs being the original owners and possessors of the excess portion of the property also claimed by the Arculars.

WHEREFORE, in the light of the foregoing, judgment is hereby rendered for the defendants to:

- a) To limit their claim, cultivation, and possession to their titled landholdings under OCT No. 1589 with 2,858 sq. meters;
- b) To vacate and to turn over to the plaintiffs portion of the property occupied by the defendants in excess of their claim;
- c) To refrain from harvesting coconut and other fruit bearing trees in excess or beyond their titled lot; and
- d) To pay to the plaintiffs moral damages in the amount of P20,000.00 and Attorney's fee in the amount of P20,000.00 plus litigation expenses in the amount of P10,000.00

SO ORDERED.^[14]

On 24 February 2011, petitioners appealed to the Regional Trial Court [RTC] of Dapa, Surigao del Norte, Branch 31.

In his order^[15] dated 26 March 2012, Acting Presiding Judge Victor A. Canoy dismissed the petitioners' appeal and directed that the case be remanded to the city court for the execution of its judgment.

From that order of dismissal, on 12 April 2012, the petitioners filed an Entry of Appearance and very Urgent Motion for Reconsideration.^[16]

On 24 April 2012, the RTC denied the petitioners' motion for reconsideration.¹⁷

Insisting on the validity of their cause, petitioners interposed this petition for review anchored on three assigned errors, to wit;

1. 1. THE MUNICIPAL CIRCUIT TRIAL COURT WAS WITHOUT JURISDICTION TO TRY AND ADJUDICATE THE CASE;
2. 2. THE CASE WAS ALREADY BARRED BY RES JUDICATA, AS THIS WAS ALREADY PREVIOUSLY SETTLED BY THE PARTIES BEFORE THE BARANGAY;