

NINTH DIVISION

[CA-G.R. CV No. 102351, March 26, 2015]

**MELBA DELA CRUZ, REPRESENTED BY HER ATTORNEY-IN-FACT,
ANNABELLE C. SALLAO, PLAINTIFF-APPELLEE, VS. SPOUSES
ALLAN AND JEMMA REYES, DEFENDANTS-APPELLANTS.**

D E C I S I O N

DICDICAN, J.:

Before us is an appeal from the Decision^[1] that was rendered by Judge Consuelo Amog-Bocar of Branch 71 of the Regional Trial Court of the Third Judicial Region in Iba, Zambales ("trial court") on January 20, 2014 in Civil Case No. RTC-3026-I which, *inter alia*, ordered herein defendants-appellants to vacate the property which was the subject matter of the instant case and surrender the possession thereof in favor of the plaintiff-appellee ("assailed decision").

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint^[2] for recovery of possession and ownership that was filed by herein plaintiff-appellee Melba Dela Cruz ("plaintiff-appellee") against herein defendants-appellants Spouses Allan and Jemma Reyes ("defendants-appellants") in the trial court on July 29, 2010. In the said complaint, the plaintiff-appellee alleged that she was the true and lawful owner of a parcel of land located at Barangay Apo-Apo, Cabangan, Zambales, with an area of Ten Thousand Nine Hundred Eighty Six (10,986) square meters and covered by Transfer Certificate of Title (TCT) No. 044-2010000030^[3] ("subject property"). According to the plaintiff-appellee, she acquired the subject property from its previous owners, the heirs of Cleto Tadeo, by virtue of an Extrajudicial Settlement of Estate Among Heirs with Absolute Sale^[4] dated October 21, 2009 whereby the heirs of Cleto Tadeo sold the subject property to herein plaintiff-appellee for the sum of One Hundred Seventy Thousand Pesos (Php170,000.00).

Nonetheless, the plaintiff-appellee averred that herein defendants-appellants had been occupying the subject property by mere tolerance of its previous owners. Thus, as the new owner of the subject property, the plaintiff-appellee requested the defendants-appellants to peacefully vacate the said property and surrender the possession thereof to the plaintiff-appellee.^[5] The defendants-appellants, however, refused despite oral and written demands from the plaintiff-appellee for them to do so. The matter was likewise brought to the barangay for conciliation but the parties also failed to reach an amicable settlement on the matter.^[6]

The foregoing antecedents thereby prompted the plaintiff-appellee to file the instant case in the trial court. In the said complaint, the plaintiff-appellee prayed that the

trial court order the defendants-appellants to vacate and peacefully surrender the subject property in her favor. Moreover, the plaintiff-appellee prayed that the defendants-appellants be directed by the trial court to remove the structures which they had illegally built on the subject property.

Summons^[7] was thereafter served upon the defendants-appellants requiring the latter to file their answer to the complaint within fifteen (15) days from their receipt thereof. Thus, in their Answer^[8] to the complaint that was filed against them, the defendants-appellants argued that the plaintiff-appellee did not acquire the subject property from the original heirs of Cleto Tadeo, namely: Demetria, Nemesio, Ernesto, Frifilo, Felomina and Carmen, all surnamed Tadeo. According to the defendants-appellants, the heirs of Cleto Tadeo were merely represented by Nemesio Tadeo and there was no partition yet among the aforesaid heirs as regards the subject property.

Thus, the defendants-appellants maintained that the contract of sale that was entered into between the heirs of Nemesio Tadeo and herein plaintiff-appellee was void in that the former had no right to sell the subject property without the consent of the other heirs of Cleto Tadeo. The defendants-appellants insisted that, as one of the great- grandchildren of Cleto Tadeo, they had the right to possess the subject property and that their possession thereof was not by mere tolerance.

A Pre-trial^[9] was then conducted by the trial court whereby both parties entered into stipulations of facts and submitted the issues for the resolution of the trial court. Trial on the merits of the case ensued thereafter.

During the trial of the case, the plaintiff-appellee adduced in evidence the testimonies of Annabelle Sallao, Elizabeth Dela Cruz Badar and Lourdes Jane Cudal. Annabelle Sallao ("Sallao") averred that she was the daughter of herein plaintiff-appellee and that the latter bought the subject property from the heirs of Cleto Tadeo by virtue of an extrajudicial settlement of estate with sale that was entered into between the parties. According to Sallao, the subject property was now declared for taxation purposes under the name of her mother who, since then, had been paying the real estate taxes due on the subject property.

Another witness for the plaintiff-appellee, Elizabeth Dela Cruz Badar ("Badar") likewise alleged that she was the daughter of herein plaintiff-appellee. Badar narrated that the subject property was first mortgaged by Demetria Viernes, the daughter of Cleto Tadeo, to Anacleto Domingo ("Domingo") and it was herein plaintiff-appellee who redeemed the subject property from Domingo.

Thereafter, Badar maintained that the heirs of Cleto Tadeo entered into a Deed of Mortgage^[10] with the plaintiff-appellee whereby the former, as mortgagees, conveyed the subject property in favor of the plaintiff-appellee, the mortgagor, in consideration of a loan that was obtained by the heirs of Cleto Tadeo from her in the sum of One Hundred Fifty Thousand Pesos (Php150,000.00).

Subsequently, however, the heirs of Cleto Tadeo failed to pay their loan obligation to the plaintiff-appellee. Thus, the parties then entered into a deed of sale whereby the subject property was sold by the heirs of Cleto Tadeo to the plaintiff-appellee for the amount of One Hundred Seventy Thousand Pesos (Php170,000.00).

The last witness for the plaintiff-appellee, Lourdes Jane Cudal ("Cudal"), was the Land Registration Examiner and Officer-in-Charge of the Register of Deeds of Zambales. Cudal brought and identified in open court OCT No. T-4982 (in the name of Cleto Tadeo) and TCT No. 044-2010000030 which was registered in the name of the plaintiff-appellee. According to Cudal, in order to transfer the land title to the subject property in her name, the plaintiff-appellee presented in the Register of Deeds the deed of extrajudicial settlement, realty tax clearance, transfer tax receipt, tax declaration, affidavit of publication of the extrajudicial settlement, affidavit of non-tenancy and the DAR clearance. Moreover, Cudal stated that no one filed an adverse claim over the subject property as shown by the record of the Register of Deeds of Zambales.

For their part, the defendants-appellants presented in evidence the testimonies of defendant-appellant Allan Reyes himself, Eduardo Viernes, Violeta Viernes Reyes and Lina Racoma. Defendant-appellant Reyes claimed that he was the grandson of Demetria Tadeo who, in turn, was one of the children of Cleto Tadeo. He asserted that he was not aware of the existence of the extrajudicial settlement of estate that was purportedly executed by him and one Racquel Tadeo. Nonetheless, he admitted that a portion of the subject property, which was a rice land, was previously mortgaged to their neighbor Trining Domingo. However, he stressed that he was not aware that the same rice land had been subsequently mortgaged to herein plaintiff-appellee.

Thereafter, witness Eduardo Viernes ("Viernes"), a grandson of Cleto Tadeo, testified that a portion of the subject property was, indeed, mortgaged to Trinidad and Anacleto Domingo. Moreover, Viernes claimed that it was only in the year 2012 when he came to know that the subject property had already been sold to the plaintiff-appellee. However, Viernes insisted that the aforesaid sale was without the consent of the other heirs of his grandfather Cleto Tadeo.

The two (2) other witnesses for the defendants-appellants, Violeta Viernes Reyes and Lina Racoma merely corroborated the testimonies of defendant-appellant Reyes and Viernes, particularly their allegation that the subject property was sold to herein plaintiff-appellee without the consent of all the heirs of Cleto Tadeo.

On January 20, 2014, the trial court rendered the assailed decision the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and the defendants are ordered:

- "1. To vacate and surrender the land that they occupy;
 - "2. To recognize plaintiff's ownership over the entire property covered by TCT No. 044- 2010000030;
 - "3. To remove all their improvements at their sole expense;
- and
- "4. To pay the cost of this suit.

"SO ORDERED."

Undaunted by the foregoing disquisition of the trial court, the defendants-appellants filed their appeal in this Court raising the following errors which were purportedly