

SPECIAL TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02401-MIN, June 27, 2014]

**SPOUSES RUFINO S. ONIOT AND GENEROSA G. ONIOT,
PETITIONERS-APPELLANTS, VS. HEIRS OF DOMICIANO JAMITO,
NAMELY: JOSEFINA J. SALVANA, EUFROCINA J. STRIKER,
ANGELES J. BELTRAN, MERLINDA SARINO, MERCY CANICO, JOSE
A. JAMITO, EDUARDO A. JAMITO, JR., ALLAN A. JAMITO,
AURORA J. SUALAN, EDNA J. GALANG, BELEN J. DOMO,
CHRISTINE J. PAUL, JESSICA PATRIARCA, RAUL J. JAMITO,
JUSTINO CANICO, ALL REPRESENTED BY THEIR ATTORNEY-IN-
FACT JUSTINO CANICO, THE HONORABLE SHERIFF OF RTC-OCC,
PANABO CITY- PUROK 1, BOBONGON, STO. TOMAS, DAVAO DEL
NORTE, RESPONDENTS-APPELLEES.**

D E C I S I O N

INTING, J.:

This is an APPEAL^[1] filed under Rule 41 of the Rules of Civil Procedure assailing the Order^[2] dated September 17, 2010 of the Regional Trial Court, Branch 34, Panabo City in Civil Case No. CC 41-2010 for "*Annulment of Judgment*".

The facts of the case are as follows:

Respondents-appellees, through their attorney-in-fact Justino Canico, filed a Complaint^[3] for forcible entry against herein petitioners-appellants on July 24, 2008. The complaint alleged that respondents-appellees and their predecessors-in-interest had ownership, prior and physical occupation since 1950 of a certain parcel of land covered by Original Certificate of Title (OCT) No. P-20125^[4] located in Brgy. Bobongon, Sto. Tomas, Davao del Norte. Respondents-appellees further alleged that their ownership and peaceful occupation were disturbed by petitioners-appellants by their illegal entry into the land during the first week of May 2008 by constructing there a residential house without the knowledge and consent of respondents-appellees. The respondents-appellees brought the matter against the petitioners-appellants to the Office of the Barangay Chairman but no settlement was reached. Respondents-appellees sent petitioners-appellants a demand to vacate on July 3, 2008 but the latter refused to do so.

Petitioners-appellants filed an Answer^[5] to the complaint and countered that they are not occupying the subject land. Subsequently, respondents-appellees filed an Amended Complaint^[6] with the same land covered by OCT No. P-20125 as the subject matter.

On March 31, 2009, the Municipal Circuit Trial Court (MCTC) rendered a Decision^[7]

in favor of herein respondents-appellees, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiffs, Heirs of Domiciano Jamito, namely: Eufrocina Angeles, Josefina Anancia (deceased) represented Merlinda Sarino and Mercy Canico, Eduardo (deceased) represented by Jose Jamito, Copernico (deceased) represented by his children, et. al., represented by their Attorney-in-fact Justino Canico against defendants Sps. Rufino and Generosa Oniot, ordering the latter and all persons acting in their behalf, to VACATE and remove all structures that they have constructed within the subject property situated in Bobongan, Sto. Tomas, Davao del Norte, covered by Original Certificate of Title No. C-4221, registered in the name of Josefina J. Salvana.

Defendants are further directed to pay, jointly, the plaintiffs, the following amounts:

I. Five Thousand (P5,000.00) Pesos a month of as reasonable compensation for the use and occupation of subject premises, starting from May, 2008 until they shall have fully vacated the same;

II. Twenty Thousand (P20,000.00) Pesos as attorney's fees; and

III. Seven Thousand (P7,000.00) Pesos as litigation expenses.

SO ORDERED.

Petitioners-appellants appealed the decision to the Regional Trial Court (RTC). However, while the case was pending, petitioners-appellants' counsel failed to file the appellant's memorandum which resulted in the dismissal of the appeal. On December 11, 2009, the RTC made an Entry of Final Judgment^[8] which certified that it had issued an Order dated November 12, 2009 dismissing the appeal.

Aggrieved, petitioners-appellants sought for new legal representation. They alleged that they only learned of the dismissal sometime in March 2010. Accordingly, on March 22, 2010, they filed a petition for relief from judgment with the RTC on the ground that not only was the former counsel's negligence prejudicial to them, but that it also constituted a form of malpractice which deprived them of their day in court.

On May 4, 2010, the RTC issued an Order^[9] dismissing the petition, the *fallo* of which reads:

WHEREFORE, in view of the foregoing the petition is hereby dismissed.

SO ORDERED.

Petitioners-appellants moved for reconsideration but the RTC denied it in its

Order^[10] dated August 4, 2010.

On September 10, 2010, petitioners-appellants filed a petition for annulment of the decision dated March 31, 2009 of the MCTC of Sto. Tomas on the ground of lack of jurisdiction. They alleged that the subject matter of the complaint was the parcel of land covered by OCT No. P-20125, and yet the subject of the decision of the MCTC was the parcel of land covered by OCT No. C-4221. The case was raffled to Branch 34 of RTC Panabo City, the same court which dismissed petitioners-appellants' appeal docketed as Special Civil Case No. SCC-09-2009, and the same court which denied petitioners-appellants' petition for relief and the motion for reconsideration thereof.

On September 17, 2010, the court *a quo* issued an Order dismissing the petition for annulment of judgment, the *fallo* of which provides:

WHEREFORE, for lack of merit, the petition is hereby DISMISSED.

SO ORDERED.

Petitioners-appellants filed a motion for reconsideration^[11] and motion for inhibition^[12]. The court *a quo* denied the motions in an Order dated December 17, 2010.

Hence, the instant appeal.

Petitioners-appellants now come before Us raising the following assignment of errors^[13]:

I.

THE COURT A QUO ERRED IN RULING THAT THE INSTANT REMEDY OF ANNULMENT IS ALREADY FORECLOSED BY REASON OF PRIOR AVAILMENT OF THE REMEDIES OF APPEAL AND PETITION FOR RELIEF.

II.

THE COURT A QUO ERRED IN APPLYING THE CASE OF CEREZO VS. TUAZON WHICH HAS NONE OF THE LEAST COMPARISON OR SIMILARITY TO THE CASE OF petitioners- APPELLANTS.

III.

THE COURT A QUO ERRED IN NOT GIVING CREDENCE TO THE CERTIFICATION ISSUED BY THE BUREAU OF LANDS THAT LOT 2 IS SEPARATE AND DISTINCT FROM LOT 262.

IV.

THE COURT A QUO ERRED IN RULING THAT THE DECISION SOUGHT TO