

## **SPECIAL NINETEENTH DIVISION**

**[ CA-G.R. CEB-CV. NO. 02032, June 27, 2014 ]**

**LUZVIMINDA O. NARBONETA, PLAINTIFF-APPELLANT, VS.  
SOTERA N. OBANI, DEFENDANT-APPELLEE.**

### **D E C I S I O N**

**LAGURA-YAP, J.:**

This appeal seeks to nullify the Order<sup>[1]</sup> dated September 5, 2005, rendered by the Regional Trial Court (RTC), Branch 10, San Jose, Antique in Civil Case No. 2005-2-3486, the dispositive portion whereof is hereunder quoted:

"In view of the foregoing, defendant, having shown that the cause of action in this case is barred by prior judgment and that a condition precedent for filing the claim has not been complied with, the Motion to Dismiss filed by defendant through counsel is hereby granted and this case is DISMISSED.

SO ORDERED."

Stripped of non-essentials, the facts are:

The instant case stemmed from a Complaint<sup>[2]</sup> dated February 2, 2005, filed by plaintiff-appellant, Luzviminda O. Narboneta (appellant) against defendant-appellee, Sotera N. Obani (appellee) for Damages docketed as Civil Case No. 2005-2-3486.

In her complaint appellant alleged that she is the owner of a piece of land, known as Lot 1459 located in Igdalaguit, Tobias Fornier, Antique covered by Original Certificate of Title (OCT) No. 14903 under the name Heirs of Felix Obani. She inherited the property from his father, Felix Obani.<sup>[3]</sup>

The appellee is her sister-in-law, being the wife of her older brother, the late Melicio. Her deceased brother also inherited a piece of land from their parents which adjoins appellant's land on the east. It is designated as Lot No. 1460 under OCT No. N-10229 registered under the name of heirs of Melicio Obani. The appellee, being the surviving spouse of Melico, inherited an undivided portion of lot 1460.<sup>[4]</sup>

In November 1996, appellee caused a relocation survey on Lot 1460. The survey showed that 1,800 sq. m. of the eastern side of appellant's land fell within the coverage of Lot 1460 based on the technical description of the title. Evidently, this was a result of an erroneous cadastral survey. Upon knowing the result of the survey, the appellee laid claim to the 1,800 sq. m. portion of appellant's land despite the fact that she had never physically possessed even a square meter portion of the area at any time.<sup>[5]</sup>

Thus appellee filed a civil case against the appellant before the Municipal Circuit Trial Court (MCTC) of Tobias Fornier-Hamtic-Anini-y, Antique. She sought to recover the 1,800 sq. m. portion of land which she claimed to be part of Lot 1460.<sup>[6]</sup>

The MCTC decided in favor of the appellee. The appellant interposed an appeal but it was affirmed by the RTC.<sup>[7]</sup> Aggrieved, the appellant filed a petition for review with the Court of Appeals. On October 8, 2004, the Court of Appeals rendered a decision in favor of the appellant, the dispositive portion whereof, reads:

“WHEREFORE, in view of the foregoing premises, the court resolves to GRANT this petition, finding for the petitioner and against the respondents.

Consequently, the decision of the Regional Trial Court, Br. 11 of San Jose, Antique in Civil Case No. 2001-03-3237 which affirmed the decision of 1st MCTC in Civil Case No. 213-TF is hereby REVERSED AND SET ASIDE and in lieu thereof, judgment is hereby rendered as follows:

1. Directing the respondents to reconvey to the Heirs of Felix Obani, represented by the petitioner, the disputed 1,800 square meters which is erroneously included in Lot No. 1460 covered by OCT No. N-10229 under the name of the Heirs of Melicio Obani.
2. No pronouncement as to the claim for damages.

Costs de oficio.<sup>[8]</sup>”

The appellant, thus averred, that she suffered actual and moral damages because of the appellee's wrongful act. The appellee is liable for damages based on quasi-delict and for violating the law on Human Relations as provided under Article 19 of the Civil Code.<sup>[9]</sup>

In response, the appellee filed a Motion to Dismiss<sup>[10]</sup> on March 28, 2005, anchored on two grounds:

1. That the cause of action is barred by prior judgment.
2. That a condition precedent for filing the claim has not been complied with.

On September 5, 2005, the RTC rendered the assailed Order<sup>[11]</sup> dismissing appellant's complaint.

On September 28, 2005, the appellant filed a Motion for Reconsideration<sup>[12]</sup> but it was likewise denied by the RTC in an Order<sup>[13]</sup> dated October 25, 2006.

Hence, the appellant is now before this Court via the instant appeal, interposing the following assignment of errors:

I.

THE LOWER COURT ERRED IN HOLDING THAT THIS CASE IS BARRED BY