

FIFTH DIVISION

[CA-G.R. CV No. 96781, November 28, 2014]

**JAIME MARTE, SUBSTITUTED BY NELIA MARTE AND CHILDREN
FREDERICK, JULIE ANN, JOHN FELIX AND CHRISTIAN ALL
SURNAMED MARTE, AS REPRESENTED BY RODOLFO
DAYANGHIRANG, PLAINTIFFS-APPELLEES, VS. ELIZABETH
LUNIZA, AURELIA MAPANO AND EDWIN INSIGNE, DEFENDANTS-
APPELLANTS.**

D E C I S I O N

CRUZ, J.:

THE CASE

This is an ordinary appeal under Rule 41 of the Rules of Court which seeks to reverse and set aside the February 9 , 2011 Decision^[1] of the Regional Trial Court of Roxas, Oriental Mindoro, Branch 43, in Civil Case No. C-179, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

- (1) Ordering the defendants and all persons who derived their rights from them to vacate the premises referred to in the body of this decision as the "disputed portions" located at Paclasan, Oriental Mindoro and restore possession thereof to plaintiffs;
- (2) No damages could be awarded to plaintiffs for paucity of evidence supporting the claim;
- (3) The counterclaims of the defendants are dismissed.

With costs against the defendants.

SO ORDERED.^[2]

THE ANTECEDENTS

On December 17, 1991, Plaintiff Jaime Marte (Marte), through his attorney-in-fact, Rodolfo Dayanghirang, filed a Complaint^[3] for Recovery of Possession and Damages with a prayer for the issuance of a Writ of Preliminary Mandatory Injunction against Elizabeth Luniza, Aurelia Mapano and Edwin Insigne with the Regional Trial Court (RTC) of Roxas, Oriental Mindoro, docketed as Civil Case No. C-179, which was

raffled to Branch 43 of the said RTC.

The plaintiff averred that he is the registered owner of the following parcels of land all located at Paclasan, Roxas, Oriental Mindoro:

- (1) a parcel of land (Lot 9-B of the subdivision plan Psd-44-012048, being a portion of Lot 9, Pcs-44-00065 L.R.C. Record No.) containing an area of four hundred square meters (400 sq. m.) and covered by Transfer Certificate of Title (TCT) No. T-18058 of the Register of Deeds of Oriental Mindoro, henceforth referred to as LOT T-18058,
- (2) a parcel of land (Lot 9-C of the subdivision plan Psd-4A-012048, being a portion of Lot 9, Pcs-4A-00651 L.R.C. Record No.) containing an area of four hundred square meters (400 sq. m.) and covered by TCT No. T-18059 of the Register of Deeds of Oriental Mindoro, henceforth referred to as LOT T-18059,
- (3) a parcel of land (Lot 1 of the consolidation and subdivision plan Pcs-44-000651, being a portion of the consolidation of Lots 1045 and 1088, Cadm 506-D, Roxas, Cadastre, L.R.C. Record No.) containing an area of four hundred square meters (400 sq. m.) and covered by TCT No. T-16784 of the Register of Deeds of Oriental Mindoro, henceforth referred to as LOT T-16784, and
- (4) a parcel of land (Lot 2 of the consolidation and subdivision plan Pcs-4A-000651, being a portion of the consolidation of Lots 1045 and 1088, Cadm 506-D, Roxas, Cadastre, L.R.C. Record No.) containing an area of four hundred one square meters (401 sq. m.) and covered by TCT No. T-16785 of the Register of Deeds of Oriental Mindoro, henceforth referred to as LOT T-16785.^[4]

The plaintiff claimed that the said lots were declared for taxation purposes under his name in Tax Declaration No. 12010-388 and that he has been paying the corresponding taxes continuously and religiously since 1982 until the time of the filing of the complaint.^[5]

Marte narrated that sometime in 1984, Defendant Elizabeth Luniza allegedly entered in and took possession of a portion of the plaintiff's property, particularly an area of around two hundred thirty-two square meters (232 sq. m.) from LOT T-16784 and LOT T-16785. Marte also charged Defendant Aurelia Mapano with illegally entering in and taking possession of a portion of his property, an area of one hundred twenty-two square meters (122 sq. m.) from LOT T-18059. Jaime made a similar charge against Defendant Edwin Insigne who also allegedly entered in and took possession of a portion of the plaintiff's property, specifically an area of around seventy-five square meters (75 sq. m.) from LOT T-18058.^[6]

The plaintiff accused the defendants of building their houses on his lots against his will. In spite of repeated demands to vacate his properties, the defendants refused to do so without any lawful or justifiable cause.^[7]

Marte prayed for the RTC to order the defendants to vacate his lots and to pay him twenty-five thousand pesos (P25,000.00) as unpaid rents and ten thousand pesos

(P10,000.00) as attorney's fees.^[8]

In their Answer with Counterclaims,^[9] Defendants Elizabeth Luniza, Aurelia Mapano and Edwin Insigne (Luniza *et al.*) denied the allegations of the plaintiff and asserted that the latter had no cause of action against them. The defendants stated that they had been residing on the disputed properties since 1960 and that these were public lands which used to be swampy lands. While insisting that the properties were public lands, the defendants also claimed that the lots where their houses were erected were bought from spouses Juan and Maria Faeldog. With the collective efforts and hard work of the other occupants of the properties, they were able to convert the swampy lands into a more inhabitable area.^[10]

The defendants related that on May 22, 1981, the plaintiff filed Free Patent Applications covering the disputed lots through misrepresentation, deceit and false machination, and without the knowledge and consent of the defendants.^[11] It appears from the allegations of the defendants that after the plaintiff filed the Free Patent Applications, Juan Faeldog, son of Juan and Maria Faeldog, sold the properties to the plaintiff on June 21, 1981 also without the knowledge and consent of the defendants and other occupants.^[12]

Defendants Luniza *et al.* argued that when Plaintiff Marte filed the Free Patent Applications, Marte connived with some personnel from the Bureau of Lands to secure approval of the applications and the registration of the properties under his name without the knowledge and consent of the defendants and in gross violation of existing Philippine laws. Immediately upon learning of the wrongful act of the plaintiff, the defendants and other occupants of the lands filed a Protest/Petition at the Bureau of Lands, San Mariano, Roxas, Oriental Mindoro sometime in October 1984. For reasons unknown to the defendants and the other occupants, their Protest/Petition was not acted upon up to the time of the filing of their Answer. The inaction prompted them to file another Protest.^[13]

The defendants maintained that the Titles issued to the plaintiff were null and void because these were secured fraudulently and in gross violation of existing laws. They likewise emphasized that the complaint against them was unjustly and maliciously filed because the allegations of the plaintiff were unfounded. The defendants petitioned the RTC to dismiss the complaint and render judgment in their favor by declaring the Titles over the parcels of land as null and void for having been secured fraudulently and in gross violation of existing laws and ordering the plaintiff to pay litigation expenses, moral and exemplary damages and the costs of the suit.^[14]

Pre-trial, and then, trial proper ensued. In the course of the proceedings before the RTC, the original plaintiff, Jaime Marte, passed away. He was substituted by his wife, Nelia and their children Frederick, Julie Ann, John Felix and Christian. After trial, both parties exercised the option not to file their respective memoranda. The RTC considered the case submitted for decision as of February 28, 2003.

On February 9, 2011, the RTC issued the assailed Decision ruling in favor of the plaintiffs. The RTC declared that the Transfer Certificates of Title issued in favor of the plaintiffs' predecessor-in-interest, Jaime Marte, were entitled to full faith and

credit and cannot be collaterally attacked.^[15] The RTC then ordered the defendants and all persons who derived rights from them to vacate the [disputed lots] and restore possession thereof to the plaintiffs.^[16]

Before arriving at its conclusion, the RTC first traced the transfer of ownership of the disputed lands from the earliest owners to Jaime Marte. The RTC summarized the acquisition as follows:

xxx Juan and Robinson both surnamed Faeldog used to own two (2) parcels of land located at Paclasan, this province, to wit: Parcel 1 with an area of 6,182 square meters is identical to Lot 1045, Cadm, 506-D, Case 1 while Parcel 2 with an area of 4,854.10 square meters is identical to Lot 1088 Cadm 506-D, Case 1. In a Deed of Sale notarized on June 21, 1981, Juan and Robinson Faeldog sold the two (2) parcels of land to Jaime Marte (Exhibit "A"). Jaime Marte then applied for free patents over the said parcels (Exhibits "B" and "E"). The applications were both approved and the corresponding patents were issued, Exhibit "C" for Lot 1088 and Exhibit "F" for 1045. Eventually, two (2) Original Certificates of Title were issued in the name of Jaime Marte by the Registry of Deeds of the province, to wit: OCT P-2545 covering Lot No. 1088 (Exhibit "D") and OCT No. P-2546 was issued over Lot No. 1045 (Exhibit "G").

The aforementioned parcels of land covered by OCT P-2545 and OCT P-2546 were then consolidated and subdivided under Pcs-4A-000651 into nine (9) lots while Lot No. 9 was further subdivided under Psd-4A-012048 into seven (7) lots (See Exhibits "H," "I" and "J"). Based on the sketch plans of Lots 1 to 8 and Lots 9-A to 9-G (Exhibits "J," "J-1" to "J-3"), the disputed portion occupied by Elizabeth Luniza is within Lots 1 and 2 covered respectively by TCT No. T-16784 and TCT No. T-16785 in the name of Jaime Marte married to Nelia Dayanghirang (Exhibits "L" and "O") while that of Aurelia Mapano is within Lot 9-C which is covered by TCT No. T-18059 (Exhibit "S"). On the other hand, the area occupied by defendant Edwin Insigne is covered by TCT No. T-18058 (Exhibit "U") also registered in the name of Jaime Marte married to Nelia Dayanghirang.^[17]

Simply stated, the RTC found that Jaime Marte validly acquired the lands from Juan and Robinson Faeldog. Afterward, Marte applied for free patents over the said lots. The applications were approved and the corresponding patents were issued. Eventually, two (2) Original Certificates of Title (OCT) were issued in the name of Marte by the Registry of Deeds of Oriental Mindoro. The parcels of land covered by the two (2) OCTs were consolidated and subdivided resulting in several Transfer Certificates of Title (TCT), all under the name of Marte, including the following: TCT No. T-16784, TCT No. 16785, TCT No. T-18058 and TCT No. T-18059. The defendants were found to have encroached on the properties of Marte because the lots that they occupied were within the lands covered by these four (4) TCTs issued to Marte.

Aggrieved by the Decision of the RTC, the defendants filed a Motion for Reconsideration on March 14, 2011. Through a Resolution dated March 23, 2011,

the RTC denied the said Motion. The defendants filed a Notice of Appeal on April 7, 2011, which was given due course by the RTC in an Order dated April 14, 2011.

THE ASSIGNED ERROR

This appeal was brought before Us on a lone assignment of error; that:

THE COURT A *QUO* GRAVELY ERRED IN AWARDING THE POSSESSION OF THE SUBJECT PROPERTY IN FAVOR OF THE PLAINTIFFS-APPELLEES AND AGAINST THE DEFENDANTS-APPELLANTS.^[18]

Defendants-appellants Elizabeth Luniza, Aurelia Mapano and Edwin Insigne (Luniza *et al.*) admit that a "certificate of title shall not be subject to a collateral attack." However, they argue that the rule on the indefeasibility of title cannot be applied if the same was procured by fraud or misrepresentation. It is their position that Jaime Marte made misrepresentations when he filed the Applications for Free Patent over Lot No. 1045 and Lot No. 1080, which included the disputed properties. Defendants-appellants Luniza *et al.* underscore that in his Applications, Marte stated that the land described and applied for was not claimed or occupied by any other person. Marte's claim, according to the defendants-appellants, is belied by the testimony of Erwin Talento, Land Management Officer of the Community Environment and Natural Resources Office (CENRO) of San Mariano, Roxas, Oriental Mindoro. Defendants-appellants Luniza *et al.* call attention to Talento's cross-examination when he stated that there were already several houses built on the properties as early as 1977.^[19]

Based on the foregoing, the defendants-appellants advance that no right of ownership or possession could arise from the Titles issued to Jaime Marte because said Titles were obtained through fraudulent applications for free patent. The defendants-appellants conclude that Marte's right of possession over the disputed properties, as a consequence of his alleged ownership, did not have a leg to stand on.^[20]

OUR RULING

We dismiss the appeal. We affirm the Decision of the RTC, as it is fully supported by law, the facts and the evidence on record.

The RTC explained that the thrust of the plaintiffs-appellees' Complaint is to seek recovery of possession of those portions of lands allegedly intruded into and illegally occupied by the defendants-appellants.^[21] The defendants-appellants agree with the RTC as to the nature of this action. They state the issue in this case, an *accion publiciana*, revolves around the determination of who between the parties have the better right of possession over the disputed lands.^[22]

After examining the records, We rule that the plaintiffs-appellees have the better right of possession over the lands. In ruling so, We resolve the question: Between the registered owner holding a Torrens title or the occupants claiming that they bought the lands from the original owners but could not present any Deed of