



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ESMERALDO GATCHALIAN,
duly represented by **SAMUEL**
GATCHALIAN,
Petitioner,

G.R. No. 225176

Present:

SERENO, J.,
Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
JARDELEZA, and
TIJAM, JJ.

- versus -

CESAR FLORES, JOSE LUIS
ARANETA, CORAZON QUING,
and **CYNTHIA FLORES,**
Respondents.

Promulgated:

JAN 19 2018

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DECISION

TIJAM, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by Esmeraldo Gatchalian, represented herein by Samuel C. Gatchalian (petitioner) assailing the Amended Decision¹ dated October 23, 2015 and Resolution² dated June 15, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 126530, which affirmed the Decision³ dated June 8, 2012 of the Regional Trial Court (RTC), Branch 196 of Parañaque City in Civil Case No. 12-0050, dismissing the complaint for ejectment filed by petitioners against Cesar Flores, Jose Paolo⁴ Araneta, Corazon Quing and Cynthia Flores (collectively as respondents), which was originally filed in the Metropolitan Trial Court (MeTC), Branch 77 of Parañaque City, in Civil Case No. 2011-49.

¹Penned by Associate Justice Edwin D. Sorongon and concurred in by Presiding Justice Andres B. Reyes, Jr. (now a Member of this Court) and Associate Justice Ricardo R. Rosario. *Rollo*, pp. 39-45.

²Id. at. pp. 47-49.

³Promulgated by Presiding Judge Brigido Artemon M. Luna II, id. at 192-206.

⁴The caption reads "Jose Luis Araneta" but the records states "Jose Paolo Araneta".

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The pertinent facts as found by the CA are as follows:

Petitioner is one of the co-owners of a parcel of land (Road Lot 23) covered by Transfer Certificate of Title No. 79180 located at Brgy. Vitalez, Parañaque City. Road Lot 23 is registered under the name of petitioner's parents, spouses Sixto Gatchalian and Liceria Gatchalian. On June 2, 2011, petitioner filed a Complaint for Ejectment with Damages against respondents Cesar Flores, Jose Paolo Araneta (sic), Corazon Quing and Cynthia Flores (respondents) with the Metropolitan Trial Court (MeTC) of Parañaque City, Branch 77 and docketed as Civil Case No. 2011-49.

The survey conducted on the property established that the lot of Segundo Mendoza encroached a portion of Road Lot 23 which the Gatchalian's had tolerated. But after several years, the lot of Segundo Mendoza was sold and subdivided among the new owners including herein respondents. When the latter demonstrated acts of gross ingratitude to the Gatchalian family, petitioner and his family were constrained to withdraw their tolerated possession, use and occupation of the portion of Road Lot 23. Verbal and written demands to vacate were then served upon them but remained unheeded. Their dispute reached the Lupong Tagapamayapa but all in vain. Hence, the filing of the ejectment case against the respondents.

For their part, respondents denied that they usurped the property of petitioner. In fact, it was the Gatchalians who have encroached on Road Lot 23 when they put up a fence in their (respondents) property. They insisted that Road Lot 23 is a public road and is now known as "*Don Juan Street Gat-Mendoza*". In the subdivision plan of the GAT Mendoza Housing area, Road Lot 23 is constituted as a right of way. Respondents believed that petitioner has no cause of action against them and has no authority to file the instant case because it is the City Government of Parañaque which has the right to do so.⁵

On December 9, 2011, the MeTC rendered a Decision⁶ ordering respondents to vacate Road Lot 23, thus:

WHEREFORE, premises considered, judgment is hereby rendered as follows ordering the defendants CESAR FLORES, JOSE PAOLO ARANETA, CORAZON QUING AND CYNTHIA FLORES and all persons claiming rights under them, to wit:

1) to vacate the 140.50 square meter portion of the Road (Lot 23) encroached by them which is covered by TCT No. 79180 and located at Don Juan St., Barangay Vitalez, Paranaque City;

2) to pay reasonable amount of rental in the amount of P20,000.00 a month plus legal rate of interest reckoned from June 2, 2011 until the defendants shall have fully vacated the encroached portion of the Road (Lot 23);

⁵Id. at 39-40.

⁶Id. at 109-112.

3) P20,000.00 as and (sic) for Attorney's fees;

4) Cost of suit.

SO ORDERED.⁷

Respondents appealed the same to the RTC, which reversed the ruling of the MeTC in its Decision⁸ dated June 8, 2012, to wit:

WHEREFORE, premises considered, the appealed Decision dated December 9, 2011 by Branch 78 of the Metropolitan Trial Court of Parañaque docketed under Civil Case No. 2011-49 is REVERSED and the Complaint dated June 2, 2011 is herewith DISMISSED for lack of merit.

SO ORDERED.⁹

Aggrieved, petitioner appealed to the CA. The latter in its Decision¹⁰ dated March 13, 2015, reversed the RTC and reinstated the ruling of the MeTC. However, upon reconsideration, the CA reversed itself and affirmed the RTC, thus:

WHEREFORE, respondent's Motion for Reconsideration is hereby GRANTED. Accordingly, we REVERSE and SET ASIDE our findings in our Decision dated March 13, 2015. The instant petition fore review is hereby DISMISSED and the Decision dated June 8, 2012 of the Regional Trial Court of Parañaque City, Branch 196 in Civil Case No. 12-0050 is UPHELD.

SO ORDERED.¹¹

Hence, this petition.

Petitioner claimed that the CA committed grave error in ruling that the private character of Road Lot 23 has been stripped by Municipal Ordinance No. 88-04, series of 1988 constituting the said road lot as a public right-of-way. Petitioner also claimed that the CA erred in stating that by virtue of laches, the road lot has been converted to public property of the municipality.

Petitioner further alleged that the road lot is still private property it being covered by TCT No. 79180 under the name of Spouses Sixto Gatchalian and Liceria Gatchalian. The mere usage by the public of the road lot does not make it public property. To convert the same to public property, it must be expropriated by the government or the registered owner must donate or sell the same to the government.

⁷Id. at 111-112.

⁸Id. at 192-206.

⁹Id. at 206.

¹⁰Id. at 273-282.

¹¹Id. at 44.

The petition is granted.

At the outset, petitioner filed before the MeTC an action for ejectment against the respondents. It is settled that in ejectment proceedings, the only issue for the Court's resolution is, who between the parties is entitled to the physical or material possession of the subject property. Issues as to ownership are not involved, except only for the purpose of determining the issue of possession.¹²

In the instant case, petitioner asserts that he is entitled to the possession of the road lot being one of the co-owners of the same since it is registered under the name of petitioner's parents. While respondents do not claim ownership of the subject lot, they argued that the road lot is now public property because of Ordinance No. 88-04, series of 1988 constituting it as "Don Juan St. Gat-Mendoza". As such, petitioner cannot evict respondents.

It is undisputed that the road lot is registered under the name of petitioner's parents. Even the respondents did not dispute this fact. It is also undisputed that the municipal government has not undertaken any expropriation proceedings to acquire the subject property neither did the petitioner donate or sell the same to the municipal government. Therefore, absent any expropriation proceedings and without any evidence that the petitioner donated or sold the subject property to the municipal government, the same is still private property.

In the case of *Woodridge School, Inc. v. ARB Construction Co., Inc.*¹³, this Court held that:


In the case of *Abellana, Sr. v. Court of Appeals*, the Court held that "the road lots in a private subdivision are private property, hence, the local government should first acquire them by donation, purchase or expropriation, if they are to be utilized as a public road." Otherwise, they remain to be private properties of the owner-developer.

Contrary to the position of petitioners, the use of the subdivision roads by the general public does not strip it of its private character. The road is not converted into public property by mere tolerance of the subdivision owner of the public's passage through it. To repeat, "the local government should first acquire them by donation, purchase or expropriation, if they are to be utilized as a public road."¹⁴

¹²*Mangaser v. Ugay*, 749 Phil. 372 (2014).

¹³545 Phil. 83 (2007).

¹⁴*Id.* at 88-89.



As reiterated in the recent case of *Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) v. Sps. Llamas*¹⁵, this Court held that:

As there is no such thing as an automatic cessation to [the] government of subdivision road lots, an actual transfer must first be effected by the subdivision owner: “subdivision streets belonged to the owner until donated to the government or until expropriated upon payment of just compensation.”¹⁶

Since the local government of Parañaque has not purchased nor undertaken any expropriation proceedings, neither did the petitioner and his siblings donate the subject property, the latter is still a private property and Ordinance No. 88-04 did not convert the same to public property.

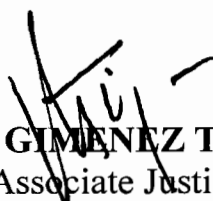
As to the CA's finding that by virtue of laches the subject property has been converted into public property, We do not agree.

It is well-settled that an “owner of [a] registered land does not lose his rights over a property on the ground of laches as long as the opposing claimant's possession was merely tolerated by the owner.”¹⁷

A torrens title is irrevocable and its validity can only be challenged in a direct proceeding.¹⁸ A torrens title is an indefeasible and imprescriptible title to a property in favor of the person in whose name the title appears. The owner is entitled to all the attributes of ownership of the property, including possession. The person who has a torrens title over a land is entitled to possession thereof. As such, petitioner can file an ejectment case against herein respondents who encroached upon a portion of petitioner's property.

WHEREFORE, premises considered, the petition is **GRANTED**. The Amended Decision dated October 23, 2015 and Resolution dated June 15, 2016 of the Court of Appeals in CA-G.R. SP No. 126530 are hereby **REVERSED and SET ASIDE**. The Decision dated December 9, 2011 of the Metropolitan Trial Court in Civil Case No. 2011-49 is **REINSTATED**.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

¹⁵G.R. No. 194190, January 25, 2017.

¹⁶Id.

¹⁷*Malonesio v. Jizmundo*, G.R. No. 199239, August 24, 2016, 801 SCRA 339, 347.

¹⁸*Cagatao v. Almonte, et. al.*, 719 Phil. 241, 253 (2013).

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson



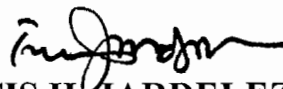
TERESITA J. LEONARDO-DE CASTRO

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



FRANCIS H. JARDELEZA

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice