Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SEGUNDINA HELUHANO ARANO, *Petitioner,*	**G.R. No. 248002**
	Present:
- *versus* -	GESMUNDO, *C.J., Chairperson,* CAGUIOA, INTING, GAERLAN, and DIMAAMPAO, *JJ.*
DELILAH L. PULIDO,* JOSELITO PULIDO, AND TEOFREDO PULIDO, *Respondents.*	Promulgated: MAR 15 2022

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RESOLUTION

INTING, *J.*:

Before the Court is a Petition[1] for Review on *Certiorari* under Rule 45 of the Rules of Court filed by petitioner Segundina Heluhano Arano (Segundina) against Delilah L. Pulido, Joselito Pulido, and Teofredo Pulido (collectively, respondents) assailing the Decision[2] dated August 31, 2018 and the Resolution[3] dated May 24, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 07174-MIN.

The CA Decision affirmed the Decision[4] dated August 28, 2015 of Branch 9, Regional Trial Court (RTC), Dipolog City in Civil Case No. 7001 that affirmed the Decision[5] dated February 10, 2015 of Branch 1,

* Referred to as Delilah H. Pulido in some parts of the *rollo.* See *rollo*, pp. 10, 138, 183 and 202.

1 Id. at 10-22.

2 Id. at 163-182; penned by Associate Justice Perpetua T. Atal-Paño with Associate Justices Edgardo A. Camello and Walter S. Ong, concurring.

3 Id. at 194-196; penned by Associate Justice Walter S. Ong with Associate Justices Edgardo A. Camello and Loida S. Posadas-Kahulugan, concurring.

4 Id. at 128-137; penned by Judge Victoriano DL. Lacaya, Jr.

5 Id. at 116-127; penned by Judge Chad Martin Paler.

Municipal Trial Court in Cities (MTCC), Dipolog City, docketed as Civil Case No. A-4158, which dismissed the Complaint[6] for *Accion Publiciana*/Recovery of Possession, and Annulment of Approved Subdivision/Segregation Plan filed by Segundina and Spouses Pantao and Sacati Makaraya (Spouses Makaraya) against respondents.

The CA Resolution denied Segundina's Motion for Reconsideration.[7]

The Antecedents

Rogaciana Roca (Rogaciana) inherited a 20,000-square-meter unregistered property known as Lot No. 1040 of the Dipolog Cadastre, Cad. Case No. 2, G.L.R.O. No. 77.[8] Since 1936, Rogaciana and her husband, Gaspar Heluhano, occupied the property together with their daughter, Segundina.[9]

On March 30, 1965, Rogaciana sold a 5,000-square-meter portion of Lot No. 1040 (subject property) to Alfredo Pulido (Alfredo) as evidenced by a notarized Affidavit of Quitclaim.[10]

Upon Rogaciana's death sometime in 1988, Segundina inherited the remaining 4,172-square-meter portion of the unregistered land, denominated as Lot No. 1040-Part.[11] Segundina then sold a 500-square-meter portion thereof to Pantao and Sacati Makaraya (Spouses Makaraya).[12]

On November 8, 2005, Alfredo filed a forcible entry case against Segundina and Spouses Makaraya who were then in possession of the subject property.[13] The lower court ruled in favor of Alfredo, and ordered for the eviction of Segundina and the Spouses Makaraya from the subject property.[14]

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6 Id. at 23-27.
7 Id. at 183-191.
8 Id. at 164.
9 Id.
10 Id.; see also Affidavit of Quitclaim, id. at 49.
11 Id. at 116 and 164.
12 Id. at 117 and 164; see also Deed of Absolute Sale dated January 23, 1981, id. at 30.
13 Id. at 117.
14 Id.

It was during the relocation survey conducted in the forcible entry case that Segundina learned about the segregation of the subject property, particularly, Lot No. 1040-Part into Lot Nos. 1 and 2, now known as Lot No. 9134. This was shown by the Sketch Plan[15] dated March 14, 2007 and prepared and submitted by Engineer Eutiquio S. Aguilar, Jr.[16]

Thus, Segundina and Spouses Makaraya filed a Complaint[17] for *Accion Publiciana*/Recovery of Possession, and Annulment of Approved Subdivision/Segregation Plan against respondents, who are the legitimate children[18] of Alfredo. They sought the declaration of their prior possession over Lot No. 1040-Part (Lot Nos. 1 and 2) and the restoration of their possession thereof, including the cancellation or nullification of the approved segregation plan for being illegal and invalid.[19]

In the complaint, Segundina and Spouses Makaraya alleged that respondents employed fraud and stealth in unlawfully taking possession of Lot Nos. 1 and 2 located within Lot No. 1040-Part which Segundina inherited from Rogaciana.[20] They further averred that the portion which Alfredo purchased from Rogaciana is situated on the eastern portion of Lot No. 1040-Part while the adjoining property in the southern and western portions of Lot No. 1040-Part remained with Rogaciana.[21]

Respondents, in turn, denied the allegations and countered that Lot Nos. 1 and 2, which they have possessed and occupied in the concept of owners, are within the 5,000-square-meter subject property purchased by their father, Alfredo, from Rogaciana and the 400-square-meter adjoining lot bought by Alfredo from a certain Fortunato Marquiala.[22] They contended that: (1) the subject property was first utilized as a poultry farm and later on planted with coconuts after the farm was destroyed by a typhoon; (2) their peaceful possession thereof was disturbed by Segundina and the Spouses Makaraya which led to the

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15 Id. at 100.
16 Id.
17 Id. at 23-27.
18 Id. at 118 and 164.
19 Id. at 26.
20 Id. at 25 and 117.
21 Id. at 25.
22 Id. at 118 and 122.

filing of the forcible entry case; (3) the forcible entry case was decided in their favor; (4) Alfredo caused the segregation of the subject property into Lot Nos. 1 and 2; (5) respondents' possession already ripened into an indefeasible right;[23] and (6) the issues presented in the complaint were already ruled upon by the court in the forcible entry case.[24]

Ruling of the MTCC

In the Decision[25] dated February 10, 2015, the MTCC dismissed the complaint and ruled that: (1) Segundina and Spouses Makaraya miserably failed to adduce enough evidence to prove their prior possession of the disputed property in contrast to respondents' actual possession thereof;[26] (2) respondents were in peaceful possession of the disputed property since 1965 only to be disturbed by Segundina and Spouses Makaraya when they entered the property on June 11, 2005;[27] (3) respondents established by evidence that they planted coconut trees and other fruit-bearing trees on the disputed property soon after its acquisition; and (4) respondents constructed within the premises a poultry farm which was destroyed by a typhoon.[28]

The MTCC took judicial notice of the forcible entry case docketed as Civil Case No. B-3195 decided by the MTCC Branch 2 in favor of respondents.[29] It found that the complaint is only a veiled appeal because it raised the same issues previously settled in the forcible entry case, which held that respondents are the parties entitled to the physical possession of the 5,000-square-meter property.[30]

The dispositive portion of the MTCC Decision reads:

> WHEREFORE, premised on the foregoing discussion, the present case is hereby ordered DISMISSED for lack of merit. All counter claims are also hereby dismissed for lack of basis. No pronouncement as to cost for both parties.

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[23] Id. at 122.
[24] Id. at 118-119.
[25] Id. at 116-127.
[26] Id. at 122-123.
[27] Id. at 123.
[28] Id. at 123.
[29] Id. at 125 and 167.
[30] Id. at 125-126.

SO ORDERED.[31]

Segundina and Spouses Makaraya filed an appeal questioning the MTCC's failure to order respondents to return the 1,688-square-meter portion of Lot Nos. 1 and 2. They maintained that this portion was not part of the mass of land bought by respondents' father, Alfredo.[32]

Ruling of the RTC

The RTC denied the appeal and affirmed the findings of the MTCC in a Decision[33] dated August 28, 2015.

According to the RTC, the decision in the prior forcible entry case constituted *res judicata*, in the concept of bar by former judgment, against the instant complaint because the two cases involved identity of parties, subject matter, and causes of action.[34]

The RTC disposed:

> WHEREFORE, the appeal is hereby DENIED for lack of merit.
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> The Decision of the Lower Court dated February 10, 2015 is AFFIRMED.[35]

Only Segundina interposed a petition for review under Rule 42 of the Rules of Court before the CA. She objected to the application of *res judicata* and argued that there is no identity of causes of action because the forcible entry case only dealt with physical possession, while the instant case dealt with recovery of possession which had the element of ownership.[36] Segundina further argued that respondents are only entitled to 5,000 square meters and not to the 1,688-square-meter excess portion which, per findings of Engr. Benvenido Malayang, Jr. (Engr. Malayang, Jr.), was part of the land occupied by respondents.[37]

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31 Id. at 126.
32 Id. at 132.
33 Id. at 128-137.
34 Id. at 136.
35 Id. at 137.
36 Id. at 169.
37 Id. at 169-170.

Ruling of the CA

In the assailed Decision[38] dated August 31, 2018, the CA found the petition partly meritorious with respect to the issue on *res judicata.* It disagreed with the findings of the RTC that there was an identity of causes of action between the forcible entry case and the instant complaint for *accion publiciana* case.[39] The CA cited the pronouncement of the Court in the cases of *B.E. San Diego, Inc. v. CA*[40] and *Jose v. Alfuerto*[41] as to the lack of identity of causes of action between an action for ejectment or forcible entry, and an *accion publiciana* or *accion reivindicatoria.*[42]

Nevertheless, the CA affirmed the RTC as to the presence of *res judicata* based on the concept of conclusiveness of judgment.[43] It noted that there is identity of parties and subject matter which accordingly makes the matters addressed in the final ruling of the forcible entry case conclusive as between the parties, specifically as to respondents' prior possession of the disputed property.[44]

With regard to the 1,688-square-meter excess portion, the CA applied extraordinary acquisitive prescription in favor of respondents' actual, adverse, open, and uninterrupted possession thereof in the concept of an owner from 1965 until 2005, or for more than 40 years, the nature of the land being unregistered. This was notwithstanding respondents' lack of just title.[45] The CA observed that Segundina failed to present sufficient proof of her prior possession, given the fact that her mother Rogaciana surrendered possession of the disputed property in 1965 by way of a quitclaim. With the quitclaim allowing respondents to take over the property, the CA found a strong indication that she intended to include the excess area in the sale in favor of respondents' father, Alfredo.[46]

The CA further discussed that Article 1542[47] of the Civil Code of

[38] Id. at 96-104.
[39] Id. at 170-174.
[40] 647 Phil. 630 (2010).
[41] 699 Phil. 307 (2012).
[42] *Rollo*, pp. 173-174.
[43] Id. at 174-175.
[44] Id. at 175.
[45] Id. at 175-177.
[46] Id. at 178.
[47] Article 1542 of the Civil Code of the Philippines provides:

the Philippines applies because the disputed lot was sold for a lump sum with defined boundaries and not based on per unit of measure. Thus, the vendor is bound to deliver the entire area covered by the boundaries as described in the quitclaim.[48]

Lastly, the CA emphasized that the disquisition is conclusive not on the issue of ownership of the excess area, but only to the extent necessary to determine who between the parties has the better right of possession.[49]

The dispositive portion of the assailed Decision reads:

> WHEREFORE, the Petition for Review is DENIED. The August 28, 2015 Decision of the Regional Trial Court, 9th Judicial Region, Branch 9, Dipolog City, in Civil Case No. 7001 is AFFIRMED but not on the ground of res judicata but for petitioner's failure to show a superior right over the respondents on the possession of the subject property.
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> SO ORDERED.[50]

Aggrieved, Segundina filed a Motion for Reconsideration,[51] but the CA denied it in its Resolution[52] dated May 24, 2019.

Segundina is now before the Court assailing the CA Decision and Resolution by arguing that: (1) the CA misapplied the doctrine of *res judicata* in the concept of conclusiveness of judgment as against the excess area of 1,688 square meters in the absence of any specific pronouncement by the MTCC as to this portion in the forcible entry

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Art. 1542. In the sale of real estate, made for a lump sum and not at the rate of a certain sum for a unit of measure or number, there shall be no increase or decrease of the price, although there be a greater or less area or number than that stated in the contract.

The same rule shall be applied when two or more immovables as sold for a single price; but if, besides mentioning the boundaries, which is indispensable in every conveyance of real estate, its area or number should be designated in the contract, the vendor shall be bound to deliver all that is included within said boundaries, even when it exceeds the area or number specified in the contract; and, should he not be able to do so, he shall suffer a reduction in the price, in proportion to what is lacking in the area or number, unless the contract is rescinded because the vendee does not accede to the failure to deliver what has been stipulated.

48 *Rollo*, p. 180.

49 Id.

50 Id. at 181.

51 Id. at 183-191

52 Id. at 194-196.

case;[53] (2) the excess of 1,688 square meters is beyond the phrase "more or less" because it is unreasonable and too huge to be within the estimated area constituting more than ¼ of the total area sold;[54] and (3) prescription does not bar Segundina's claim as to the excess area which was not adjudicated in the prior forcible entry case precisely because Segundina had been in actual possession of said portion.[55]

For their part, respondents insist on the correctness of the MTCC Decision, the RTC Decision, and the assailed CA Decision which affirmed the RTC Decision that considered the facts and circumstances of the case and applied the relevant laws and jurisprudence.[56]

The Issues

The issues brought forth in this petition are as follows: (a) whether the CA committed reversible error in ruling that the conclusiveness of judgment is applicable to the excess of 1,688 square meters not included in the forcible entry case; (b) whether the CA committed reversible error in ruling that prescription barred Segundina's action to recover the 1,688-square-meter portion; and (c) whether the CA committed reversible error in ruling that the excess of 1,688 square meters is within the meaning of the phrase "more or less" as indicated in the quitclaim.[57]

Our Ruling

The petition fails.

Preliminarily, the petition only assails the findings of the CA as to the 1,688-square-meter portion in excess of the 5,000 square meters of Lot No. 1040, which was the subject of the quitclaim executed by Rogaciana in favor of Alfredo.

The Court finds no cogent reason to depart from the findings and conclusions of the MTCC, as affirmed by the RTC and the CA, that respondents have a better right of possession over the 1,688 square

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[53] Id. at 16-17.
[54] Id. at 18-19.
[55] Id. at 19-21.
[56] Id. at 213-214.
[57] Id. at 15.

meters in excess of the 5,000-square-meter portion of Lot No. 1040 which was sold by Rogaciana to Alfredo.

Although the Court agrees that the conclusiveness of judgment can only apply with respect to the 5,000-square-meter portion of Lot No. 1040 as definitively pronounced by the MTCC in the forcible entry case,[58] Segundina, however, still failed to establish a better right of possession over the excess area of 1,688 square meters.

Notably, the MTCC declared that respondents were in actual possession of the disputed property and that Segundina was not in prior possession thereof.[59] The Court equally finds that Segundina miserably failed to adduce sufficient evidence to prove her prior possession of the disputed property.

By "disputed property," the Court refers to the area covered by Lot No. 1040-Part or Lot No. 1 and Lot No. 2, both of SGS-09-000703 of Lot No. 9134, Cad-85 which is the subject of Segundina's complaint.[60] As aptly found by the CA, it was established during the proceedings below that Alfredo actually occupied 7,200 square meters and that the land surveyed for respondents exceeded 5,000 square meters

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[58] The dispositive portion of the MTCC in the Forcible Entry case explicitly defined the area to which respondents were entitled to, *viz*:

> WHEREFORE, by preponderance of evidence, judgment is hereby rendered declaring the plaintifs to be entitled to physical possession of the two parcels of land in question consisting of the first was the former property of Fortunato Marquiala, the site of the poultry farm with an area of 3,520 square meters situated at Egot (along Governor's Village), Dipolog City and the second parcel containing an area of 5,000 square meters situated along the New Barangay Road of Sta. Isabel, Dipolog City sold by Rogaciana Heluhano mother of defendant Segundina Heluhano, or predecessor in interest of the defendants, x x x:
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> x x x x (Underscoring supplied.)

As culled from the MTCC and RTC Decisions, id. at 124 and 133.

[59] Id. at 122.

[60] The prayer as contained in the complaint for *accion publiciana* filed by Segundina and Spouses Makaraya reads:

> WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that after due notice and hearing, judgment be rendered in favor of the plaintiffs and against the defendant herein, to wit:
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> 1.) Finding the plaintiffs to be in priority of possession of Lot No. 1040-Part or Lot No. 9134, SGS-09-000703, tacking plaintiff Arano's possession to that of her mother, Rogaciana Roca Heluhano;
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> 2.) Restoring plaintiffs in possession of Lot No. 1040-Part or Lot 1 and Lot 2, both of SGS-09-000703 of Lot No. 9134, Cad-85 and ordering defendants to vacate therefrom;
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> 3.) Ordering the cancellation or nullification of approved segregation plan SGS-09-000703 for being invalid and illegal and declare the same to be inoperative and ineffectual;
>
> x x x x

Id. at 26.

as confirmed by Engr. Malayang, Jr.[61] There is no dispute that respondents were in possession of not only the 5,000-square-meter portion but also the excess of 1,688 square meters since the sale in 1965.[62] Otherwise, the property subject of the *accion publiciana* pertaining to Lot No. 1 and Lot No. 2 segregated during the questioned survey conducted by Engr. Malayang, Jr.—which Segundina seeks to cancel/nullify—would not have included the 1,688-square-meter excess portion.

Thus, the Court agrees with the CA that although the subject land in the forcible entry case was described as 5,000 square meters, it cannot be denied that respondents previously occupied more than the said area and the portion Segundina was trying to recover is part of that which was already possessed by respondents.[63]

An *accion publiciana* is an ordinary civil proceeding to recover the right of possession and determine the better right of possession of realty independently of title when the dispossession has lasted for more than one year and the plenary action of forcible entry or illegal detainer is no longer available.[64] Without prior possession, Segundina had no cause of action against respondents to support her complaint for *accion publiciana.* Because Segundina claims that respondents employed fraud and stealth in dispossessing her of the disputed property,[65] akin to a forcible entry action, the issue as to which party has prior *de facto* possession must be established to declare that it is Segundina who has the better right to possess the disputed property.

Alfredo's admission that the survey revealed that respondents were occupying 7,200 square meters and the confirmation of the relocation survey itself as conducted by Engr. Malayang[66] only bolstered respondents' prior possession of the disputed property, in contrast to Segundina's bare assertion of their occupation thereof by virtue of her ownership as one of the legitimate heirs of Rogaciana.

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61 Id. at 176.
62 Id.
63 Id. at 176-177.
64 *Heirs of Alfonso Yusingco v. Busilak*, 824 Phil. 454, 461 (2018), citing *Spouses Valdez, Jr. v. Court of Appeals*, 523 Phil. 39, 45-46 (2006), *Encarnacion v. Amigo*, 533 Phil. 466, 472 (2006), *Suarez v. Spouses Emboy, Jr.*, 729 Phil. 315, 329-330 (2014).
65 *Rollo*, p. 26.
66 Id. at 176.

As regards the issue on prescription, a discussion as to its application was necessitated by Segundina's invocation of her ownership rights over the disputed property which is unregistered land.

A *provisional* determination of ownership now comes into play.

Segundina could not have acquired the excess portion through inheritance because it was no longer part of the estate of Rogaciana on account of the quitclaim executed by Rogaciana and respondents' possession of the disputed portion since 1965.

As found by Engr. Malayang, respondents were shown to have occupied a total of 6,788 square meters instead of only 5,000 square meters which is the area indicated in the quitclaim.[67] The CA further observed that the quitclaim stated both the boundaries of the lot sold and the area thereof, indicated in "more or less"[68] because, according to Alfredo, Rogaciana was not sure of the exact area and merely pinpointed the landmarks of the property.[69] Respondents' possession of the excess portion from the time of the sale until it was interrupted by Segundina in 2005 was an indication that, indeed, such portion was part of the parcel of land which Rogaciana sold to Alfredo.

Even assuming that the 1,688-square-meter portion was not part of the sale, being an unregistered land, Segundina's inaction—from the time that respondents occupied and possessed the property in 1965 until 2005 in the concept of owner for more than 40 years—already barred the instant action for its recovery. Significantly, these findings are only provisional in order to resolve the instant action for recovery of possession and does not, in any way, preclude a determination of the issue on ownership in a separate action.

Thus, the Court finds no reversible error on the part of the CA in affirming the dismissal of the *accion publiciana* filed by Segundina and Spouses Makaraya against respondents for lack of merit.

WHEREFORE, the petition is **DENIED**. The Decision dated August 31, 2018 and the Resolution dated May 24, 2019 of the Court of Appeals in CA-G.R. SP No. 07174-MIN are hereby **AFFIRMED**.

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[67] Id. at 178.
[68] Id. at 180.
[69] Id. at 176.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice