



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated July 10, 2023, which reads as follows:

G.R. No. 264684 – TERELAY INVESTMENT AND DEVELOPMENT CORPORATION, petitioner, versus MARIA PAZ SOCORRO YULO-CAMMACK and WILLIAM J. CAMMACK, respondents.

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision,² dated June 10, 2022, and the Resolution,³ dated November 24, 2022, of the Court of Appeals (CA) in CA-G.R. CV No. 115040. The CA affirmed the Decision,⁴ dated December 7, 2018, of the Calamba City Regional Trial Court, Branch 92 (RTC), which dismissed the counterclaim of petitioner Terelay Investment and Development Corporation (**Terelay**) against Spouses Maria Paz Socorro Yulo-Cammack (**Maria**) and William J. Cammack (collectively, **Spouses Cammack**) in Civil Case No. 2832-1999-C for Recovery of Possession of Personal Property and Damages with Prayer for Issuance of Writ of Replevin.

The Facts

In 1999, the Spouses Cammack initiated a Complaint with a prayer for issuance of writ of replevin against Terelay's President, Teresa J. Yulo (**Teresa**), for the recovery of the owner's duplicate copy of Transfer Certificate Title (TCT) No. T-107066,⁵ which was issued in their names. Terelay was impleaded in the Spouses Cammack's Second Amended Complaint on February 1, 2001.⁶

¹ *Rollo*, pp. 13-45.

² *Id.* at 52-67. Penned by Associate Justice Perpetua T. Atal-Paño and concurred in by Associate Justices Manuel M. Barrios and Maximo M. De Leon.

³ *Id.* at 69-72.

⁴ *Id.* at 188-194. Penned by Acting Presiding Judge Wilhelmina B. Jorge-Wagan.

⁵ *Id.* at 112-113.

⁶ *Id.* at 15-17, Petition.

In their Complaint, the Spouses Cammack alleged that they are the registered owners of a parcel of land in Cabuyao, Laguna, covered by TCT No. T-107066 (**subject property**), which Maria bought in May 1987 from Luis A. Yulo, then President of Terelay. They further claimed that despite becoming the registered owners of the subject property, the owner's duplicate copy of TCT No. T-107066 remained in Terelay's possession, which Teresa refused to surrender in their favor.⁷

In its Answer, Terelay averred that the Spouses Cammack had no cause of action, as it is the owner in fee simple of the subject property. While it admitted that a deed of sale was executed in favor of Maria, it asserted that it never intended nor expected to be paid by her. Terelay likewise argued that Maria was constituted as its implied trustee with regard to the subject property.⁸

Consequently, Terelay filed a "compulsory counterclaim" to remove the cloud over its title praying for the cancellation of TCT No. T-107066, reconveyance of the subject property, and issuance of a new TCT in its favor. The Spouses Cammack moved for its dismissal, as they posited that the same is permissive in nature and that the RTC did not acquire jurisdiction over the same due to Terelay's non-payment of docket fees.⁹

In the Order,¹⁰ dated June 17, 2002, the RTC held that Terelay's Counterclaim is compulsory in nature.

In 2015, after years of protracted litigation, the Spouses Cammack moved for the withdrawal of their Complaint and likewise sought the dismissal of all claims and counterclaims relative to or arising therefrom. The RTC granted the withdrawal of the Complaint, but allowed the presentation of evidence on Terelay's Counterclaim.¹¹

The Ruling of the RTC

In the Decision,¹² dated December 7, 2018, the RTC dismissed Terelay's Counterclaim for lack of merit. Despite the court's prior declaration that the Counterclaim is compulsory in nature had attained finality, the RTC still made a finding that it is actually only permissive. Nonetheless, the RTC ruled that Terelay failed to discharge its burden of proving its ownership over the subject

⁷ Id. at 53, CA Decision.

⁸ Id.

⁹ Id. at 53-54.

¹⁰ Id. at 173-174.

¹¹ Id. at 54.

¹² Id. at 188-194.

property and that Terelay cannot collaterally attack the subject property's TCT through the counterclaim it included in its Answer.¹³

Aggrieved, Terelay appealed to the CA.

The Ruling of the CA

In the Decision,¹⁴ dated June 10, 2022, the CA denied Terelay's appeal. It explained that the RTC did not acquire jurisdiction over the Counterclaim, which was permissive in nature. It further held that even assuming that the RTC acquired jurisdiction over the Counterclaim, Terelay failed to prove its entitlement to the relief prayed for and that the Counterclaim constitutes a proscribed collateral attack on a Torrens title.¹⁵

Terelay moved for reconsideration, which the CA denied in the Resolution,¹⁶ dated November 24, 2022.

Hence, this Petition.

The Issue

Did the CA err in denying Terelay's appeal?

The Ruling of the Court

The Petition is denied.

*Terelay's Counterclaim is permissive
in nature*

A counterclaim is any claim which a respondent may have against an opposing party. It is characterized as compulsory if it arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim, and does not require for its adjudication the

¹³ Id. at 190-194.

¹⁴ Id. at 52-67.

¹⁵ Id. at 56-66.

¹⁶ Id. at 69-72.

presence of third parties of whom the court cannot acquire jurisdiction. A compulsory counterclaim is likewise barred if not set up in the same action.¹⁷

On the other hand, a counterclaim is permissive if it does not arise out of or is not necessarily connected with the subject matter of the opposing party's claim. It is an independent claim which may be filed separately in another case.¹⁸

In *Spouses Mendiola v. Court of Appeals*,¹⁹ the Court provided standards to determine the nature of a counterclaim:

The four tests to determine whether a counterclaim is compulsory or are not are the following, to wit: **(a) Are the issues of fact or law raised by the claim and the counterclaim largely the same? (b) Would *res judicata* bar a subsequent suit on defendant's claims, absent the compulsory counterclaim rule? (c) Will substantially the same evidence support or refute plaintiff's claim as well as the defendant's counterclaim? And (d) Is there any logical relation between the claim and the counterclaim, such that the conduct of separate trials of the respective claims of the parties would entail a substantial duplication of effort and time by the parties and the court?** Of the four, the one compelling test of compulsoriness is the logical relation between the claim alleged in the complaint and that in the counterclaim. Such relationship exists when conducting separate trials of the respective claims of the parties would entail substantial duplication of time and effort by the parties and the court; when the multiple claims involve the same factual and legal issues; or when the claims are offshoots of the same basic controversy between the parties. **If these tests result in affirmative answers, the counterclaim is compulsory.**²⁰ (Emphasis supplied)

Based on the above, Terelay's Counterclaim is permissive in nature. This is because: (a) the issue in the main case is the right of possession over the owner's copy of TCT No. T-107066, whereas the issue in the Counterclaim is ownership of the subject property; (b) since replevin is an action primarily possessory in nature and determines nothing more than the right of possession,²¹ Terelay's claims would not be barred by *res judicata* had it opted to litigate its counterclaim in a separate proceeding; (c) the evidence required to prove the Spouses Cammack's right of possession is different from that which will prove Terelay's ownership of the subject property; and (d) the recovery of the Spouses Cammack's claim is not contingent on the proof in support of Terelay's Counterclaim, such that the conduct of separate trials will not result in the duplication of time and effort on the part of the court and the parties.

¹⁷ *Alba, Jr. v. Malapajo*, 778 Phil. 268, 275 (2016).

¹⁸ *Id.*

¹⁹ 691 Phil. 244 (2012).

²⁰ *Id.* at 265-266.

²¹ *BA Finance Corp. v. Court of Appeals*, 327 Phil. 716 (1996).

It bears stressing that in a replevin suit, it is sufficient that the plaintiff proves entitlement to legal possession of the personal property, as even any person entitled to possession of personal property may institute such suit.²² In this case, the Spouses Cammack sought to recover a personal property, *i.e.*, a TCT, which is in accordance with case law which dictates that the correct remedy for a registered owner against an uncooperative possessor of the owner's duplicate certificate of title is to compel its surrender through an action for replevin.²³ On the other hand, the Counterclaim specially questioned the ownership of the Spouses Cammack, Maria, in particular, of the real property covered by the TCT.

In view of the foregoing, the Counterclaim is permissive. Nonetheless, the CA should not have faulted Terelay for its failure to pay the required docket fees in permissive counterclaims.

It has been settled that non-payment of docket fees at the time of filing of an initiatory pleading does not automatically cause its dismissal provided that: (a) the fees are paid within a reasonable period; and (b) there was no intention on the part of the claimant to defraud the government.²⁴

In this case, Terelay cannot be blamed for non-payment of the Counterclaim's docket fees because it merely relied on the June 17, 2002 RTC Order, albeit erroneous, which found the same to be compulsory in nature. As this exhibits Terelay's good faith and intention not to defraud the government, the dismissal of the Counterclaim should not be grounded on Terelay's failure to pay docket fees.²⁵

The Counterclaim is not a collateral attack on TCT No. T-107066

The doctrine of indefeasibility of a Torrens title and Presidential Decree No. 1529²⁶ provide that a certificate of title shall not be subject to collateral attack. Otherwise stated, a Torrens title cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

In this regard, a collateral attack transpires when, in another action to obtain a different relief and as an incident to the present action, an attack is made against the judgment granting the title. This is to be distinguished from a direct attack that is made through an action which main objective is to annul, set aside, or enjoin the enforcement of such judgment if not yet implemented,

²² See *National Power Corp. v. Court of Appeals*, 354 Phil. 936 (1998) and *Filinvest Credit Corp. v. Court of Appeals*, 318 Phil. 653 (1995).

²³ *Tan Po Chu v. Court of Appeals*, 783 Phil. 526, 533 (2016).

²⁴ *Unicapital, Inc. v. Consing, Jr.*, 717 Phil. 689, 707-708 (2013).

²⁵ See *Sy-Vargas v. Estate of Ogsos*, 796 Phil. 840 (2016).

²⁶ Entitled "PROPERTY REGISTRATION DECREE," approved on June 11, 1978.

or to seek recovery if the property titled under the judgment had been disposed of.²⁷

Jurisprudence further provides that a counterclaim is a direct attack on a Torrens title based on the principle that a counterclaim is essentially an original complaint filed by a respondent against a plaintiff and stands on the same footing as an independent action.²⁸

In this case, Terelay assailed the validity of TCT No. T-107066 and prayed for reconveyance of the subject property and issuance of a new TCT in its favor through a counterclaim, which has been settled jurisprudentially to be a direct attack on a Torrens title. Thus, the pronouncement of both the RTC and the CA that the Counterclaim is a collateral attack on a Torrens title is erroneous.

Terelay failed to discharge the burden of proving its case

Settled is the rule that findings of the trial court, especially when affirmed by the appellate court, are conclusive and binding upon the Court, all the more so in a Rule 45 Petition in which questions of fact are beyond its coverage as these involve an examination of the probative value of the evidence presented.²⁹

Here, the RTC found that Terelay failed to present competent and sufficient evidence to prove its alleged ownership of the subject property. It noted that its lone witness admitted that it has no written document to establish a trust in its favor. The CA likewise arrived at the same conclusion as it found that the said witness also acknowledged that she was not privy to any transaction between the Spouses Cammack and Terelay prior to 2000, and, therefore, had no personal knowledge of the circumstances surrounding the execution of the deed of sale in favor of Maria.³⁰ As the CA adopted and confirmed the findings of the RTC and there appears to be no justification to review the same, they are final and conclusive.

In sum, while the Counterclaim is a direct attack on TCT No. T-107066 and should not have been dismissed on the ground of non-payment of docket fees as a permissive counterclaim, the denial of the Petition is still warranted as

²⁷ *Vda. de Aguilar v. Spouses Alfaro*, 637 Phil. 131, 144-145 (2010).

²⁸ See *Velasco v. Magpale*, G.R. No. 243146, September 9, 2020; *Firaza, Sr. v. Spouses Ugay*, 708 Phil. 24 (2013); *Spouses Sarmiento v. Court of Appeals*, 507 Phil. 101 (2005); and *Development Bank of the Phils. v. Court of Appeals*, 387 Phil. 283 (2000).

²⁹ See *Southstar Construction and Development Corp. v. Philippine Estates Corp.*, G.R. No. 218966, August 1, 2022 and *Fernandez v. People*, G.R. No. 249606, July 6, 2022.

³⁰ *Rollo*, pp. 63 and 193, RTC and CA Decisions.

Terelay failed to prove its case against the Spouses Cammack by the required preponderance of evidence.

WHEREFORE, Petition for Review on *Certiorari* is **DENIED**. The Decision, dated June 10, 2022, and the Resolution, dated November 24, 2022, of the Court of Appeals in CA-G.R. CV No. 115040 are **AFFIRMED**.

SO ORDERED.

By authority of the Court:

Misael Domingo C. Battung III
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Division Clerk of Court 7/10/23

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