

ROLLY D. MARQUEZ, PETITIONER, VS. MELECIA S. DAGUIO, RESPONDENT.

Ponente: REYES, JR., J.C., J.

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REYES, JR., J.C., J.:

Before the Court is a petition for review filed under Rule 42 of the Rules of Court assailing the Decision dated May 25, 2009 and Order dated August 14, 2012 of the Regional Trial Court (RTC) Branch 29 of Bayombong, Nueva Vizcaya in Civil Case No. 6871 which affirmed the Decision dated August 7, 2007 of the Municipal Trial Court (MTC) of Solano, Nueva Vizcaya, and denied petitioner's motion for reconsideration, respectively.

Rolly D. Marquez (Marquez) filed a Complaint against Melecia S. Daguió (Daguió), for forcible entry before the MTC of Solano, Nueva Vizcaya, docketed as Civil Case No. 3609. According to Marquez, he owns, by operation of law, a 2,889 square meter land in San Luis, Solano which he cultivated for many years until July 2001 when Daguió and her laborers forcibly entered the same. (Rollo, p. 13).

Instead of filing an Answer, Daguió filed a Motion for a Bill of Particulars stating that the phrase “owner by operation of law” which Marquez mentioned in his Complaint is not alleged with sufficient definiteness or particularity to enable her to prepare her responsive pleading. (Rollo, p. 33).

Marquez for his part filed a Motion to Render Judgment pointing out that a Motion for a Bill of Particulars is a prohibited pleading under the Rules on Summary Procedure. (Rollo, pp. 37-41).

On August 25, 2003 the MTC denied Daguió's motion and ordered her to file an Answer. The MTC likewise ordered Marquez to submit proof of his ownership over the subject land. Neither party complied with the order. (Rollo, p. 44).

With the failure of the parties to amicably settle the case, the MTC ordered the parties to submit their respective position papers. Only Marquez submitted his. (Rollo, p. 57).

On August 7, 2007, the MTC rendered its Decision, disposing:

“WHEREFORE, premises considered, this court resolves to dismiss the complaint for failure of plaintiff to show proof that he is prior in possession over the subject property. He who asserts, not he who denies, must prove (Sps. Boyboy vs. Atty. Yabut, Jr., 449 Phil. 664, 668 {2003}).

Costs de oficio.

SO ORDERED.” (Rollo, p. 58).

In reaching its decision, the MTC explained that:

“...neither party complied with the Resolution dated August 25, 2003, directing the plaintiff to show any proof of ownership over the land subject of this case. Neither has the defendant filed an answer nor her position paper. What we have are mere allegations of ownership over the property, each claiming a right over the land but not one showing any proof of ownership over it.

A party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. The only issue that the court has to settle in an ejectment suit is the right to physical possession...

To effect the ejectment of an occupant or deforciant on the land, the complaint should embody such a statement of facts as brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol evidence....

It is also settled that in the resolution thereof, what is important is determining who is entitled to the physical possession of the property... Indeed, any of the parties who can prove prior possession de facto may recover such possession even from the owner himself... since such cases proceed independently of any claim of ownership and the plaintiff needs merely to prove prior possession de facto and undue deprivation thereof.” (Rollo, pp. 57-58). (citations omitted)

Marquez elevated the case to the RTC on appeal alleging that the MTC Decision was contrary to the facts obtaining in the case and is contrary to law and existing jurisprudence. (Rollo, p. 70).

On May 25, 2009, the RTC rendered its Decision affirming the MTC, thus:

“WHEREFORE, in view of the foregoing, the decision of the Municipal Trial Court of Solano DISMISSING the above case is hereby AFFIRMED.

SO ORDERED.” (Rollo, p. 73).

The RTC found no reason to disturb the findings of the MTC holding that it was in accordance with law and existing jurisprudence. (Rollo, p. 70). Marquez's Motion for Reconsideration was also denied by the RTC in its Order dated August 14, 2012. (Rollo, p. 23).

Hence, the present petition where Marquez is claiming that:

(a)

THE REGIONAL TRIAL COURT, BRANCH 29, BAYOMBONG, NUEVA VIZCAYA GRAVELY ERRED IN AFFIRMING THE DECISION OF THE MUNICIPAL TRIAL COURT OF SOLANO, NUEVA VIZCAYA, DISMISSING PETITIONER'S COMPLAINT FOR FAILURE TO SHOW PROOF THAT HE IS PRIOR IN POSSESSION OVER THE SUBJECT PROPERTY.

(b)

THE REGIONAL TRIAL COURT, BRANCH 29, BAYOMBONG, NUEVA VIZCAYA, GRAVELY ERRED IN AFFIRMING THE DECISION OF THE MUNICIPAL TRIAL COURT OF SOLANO, NUEVA VIZCAYA, DISREGARDING THE UNDISPUTED FACTS: THAT THE PETITIONER HAD SUBMITTED HIS VERIFIED COMPLAINT WITH ANNEXES AND THE RESPONDENT NOT HAVING SUBMITTED ANY ANSWER DENYING THE ALLEGATIONS OF THE PETITIONER IN HIS VERIFIED COMPLAINT. (Rollo, p. 16).

Marquez argues that the allegations in his complaint show his prior possession of the property. Daguios Motion for Bill of Particulars merely questioned his right over the property and did not deny that she paid laborers to forcibly enter the subject land. The MTC and the RTC should have applied Section 6[1] of the Revised Rules on Summary Procedure when the respondent failed to file her Answer to the Complaint. Also in ejectment cases, it does not matter if a party's title to the property is questionable since the only question that must be resolved is who is entitled to de facto possession. In this case, his Complaint was accompanied with attachments from the

Barangay Agrarian Reform Committee (BARC) Chairman and the Municipal Agrarian Reform Office (MARO). Marquez asserts that these are sufficient to prove that he has prior possession of the land in dispute. (Rollo, pp. 17-18).

The Court finds NO MERIT in the petition.

Section 1, Rule 70 of the Rules of Court provides:

“SECTION 1. Who may institute proceedings, and when. — Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person may at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.”

Under this provision, in order for a forcible entry suit to prosper, the plaintiff must allege and prove: (1) prior physical possession of the property; and (2) unlawful deprivation of it by the defendant through force, intimidation, strategy, threat or stealth. (*Nenita Quality Foods Corp. v. Galabo*, 689 SCRA 569, 583 [2013])

It is true that an action for forcible entry is summary in nature aimed only at providing an expeditious means of protecting actual possession. (*Nenita Quality Foods Corp. v. Galabo*, supra, p. 582). The purpose of such action, the same with unlawful detainer, is that regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be turned out by strong hand, violence or terror. (*Silverio v. Marcelo*, 696 SCRA 694, 714 [2013]).

"Possession" in forcible entry suits refers to nothing more than prior physical possession or possession de facto, not possession de jure or legal possession in the sense contemplated in civil law. Title is not an issue, and its absence "is not a ground for the courts to withhold relief from the parties in an ejectment case." A party who can prove prior possession can recover such possession even against the owner himself. That is, whatever may be the character of a party's possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. (*Nenita Quality Foods Corp. v. Galabo*, supra, p. 581).

As in any civil case however, the burden of proof in forcible entry cases lie with the complainants who must establish their case by preponderance of evidence. (*Nenita Quality Foods Corp. v. Galabo*, supra, p. 583) The party having the burden of proof must establish his case by a preponderance of evidence, which simply means "evidence which is of greater weight, or more convincing than that which is offered in opposition to it". Thus, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's. (*Lee v. Dela Paz*, 604 SCRA 522, 536).

If the plaintiff claims a right that is granted or created by law, the same must be proven by competent evidence. (*Copuyoc v. De Sola*, 504 SCRA 176, 186 [2006]).

In this case Marquez asserts that his verified Complaint showed that he had prior possession of the subject land and the lower court erred in dismissing his complaint on the ground that he failed to show proof of prior possession.

We disagree.

Mere allegation or claim of proof in the complaint is not enough. The complainant must prove, by preponderance of evidence, the allegations in the complaint before he could be entitled to the reliefs of ejectment. (Lee v. Dela Paz, supra, p. 536).

Marquez likewise submitted attachments from the BARC Chairman and the MARO, which according to him, are more than sufficient to prove that the petitioner had been in prior possession of the landholding. (Rollo, p. 18). A perusal of these documents however reveal their insufficiency to meet the requirements needed to support a claim under Rule 70.

As aptly summarized by the RTC:

“Plaintiff’s position paper lacks affidavits of witnesses having personal knowledge of plaintiff’s prior possession and eventual deprivation of possession as well as other evidence pursuant to the Section 10 and 14, Rule 70 of the Revised Rules of Court. Perusing the complaint, this court finds the following attachments: Annex “A” Letter of BARC Chairman Francisco S. Bicad to the DAR indorsing to the latter the complaint of plaintiff on account of the defendant’s laborers having entered and tilled the plaintiff’s ricefield and the failure of the defendant to stop her laborers from tilling despite a letter to that effect; Annex “B” a letter from Jovin Bernardo MARO of Solano, Nueva Vizcaya to the defendant inviting her to a dialogue; Annex “B-1” defendant’s letter response to MARO Bernardo stating the lack of agrarian relations between her and plaintiff, and Annex “C” a certificate to file action from the Lupong Tagapamayapa to be insufficient as these are not affidavits and thus fall short of the stringent evidentiary requirements under the Rule on Summary Procedure.” (Rollo, pp. 71-72).

A complainant in a forcible entry case must satisfactorily prove prior physical possession and his being deprived thereof by respondent through force, intimidation, threat, strategy and stealth. Absence alone of prior physical possession by the plaintiff in a forcible entry case already warrants the dismissal of the complaint. (Lee v. Dela Paz, supra, p. 537).

To stress, the burden of proof to establish by preponderance of evidence in civil cases, is reposed on the plaintiff who is the party asserting the affirmative of an issue. The plaintiff has the burden of presenting evidence required to obtain a favorable judgment and he, having such burden of proof, will be defeated if no evidence were given on either side. (C&S Fishfarm Corp. v. Court of Appeals, 394 SCRA 82, 89 [2002]).

As Marquez failed to show evidence that constitute elements of forcible entry, the failure of Daguios to file an Answer or Position Paper a quo is of no moment and by itself does not entitle him to a favorable ruling.

WHEREFORE, the petition is DENIED for lack of merit. The Decision dated May 25, 2009 and Order dated August 14, 2012 of the Regional Trial Court, Branch 29 of Bayombong, Nueva Vizcaya, in Civil Case No. 6871 are hereby AFFIRMED.

SO ORDERED.

Lopez, M.V., and Inting, S.B., JJ., concur.

[1] Sec. 6. Effect of failure to answer. --- Should the defendant fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, That the court may in its discretion reduce the amount of damages and attorney’s fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 18 of the Rules of Court, if there are two or more defendants.

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