

MARGARITO SARONA, ET AL., PLAINTIFFS-APPELLANTS, VS. FELIPE VILLEGAS AND RAMONA CARILLO, DEFENDANTS-APPELLEES.

G.R. No. L-22984. March 27, 1968

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/099f1c12956d/>

SANCHEZ, J.:

The key question thrust upon us is whether the present is a case of forcible entry or one of unlawful detainer.

The problem arose because on January 28, 1963, plaintiffs lodged with the Municipal Court of Padada, Davao, against defendants a complaint styled "Unlawful Detainer." [1] They there aver that they are the absolute owners and in possession of a parcel of land in Paligue, Padada. Their complaint then proceeds to recite:

"3. That on April 1, 1958, defendants entered upon said land Lot 'F' constructed their residential house thereon and up to date remain in possession thereof, unlawfully withholding the possession of the same from the plaintiffs;

4. That the reasonable rental for said Lot is P20.00 per month;

5. That on December 28, 1962, plaintiffs demanded of defendants to vacate the premises and to pay the rentals in arrears but then defendants failed to do so; that defendants' possession thus became clearly unlawful after said demand;

x x x."

They asked that they be restored into possession, and that defendants be made to pay rents, attorneys' fees, expenses of litigation, and costs.

Defendants met the complaint with a motion to dismiss on the sole ground of lack of jurisdiction of the municipal court. They say that the case is one of forcible entry, and the reglementary one-year period had elapsed before suit was started.

The municipal court overturned the motion to dismiss.

On May 15, 1963, defendants registered their answer. They reiterated the court's lack of jurisdiction, and by way of affirmative defenses, stated that plaintiffs have no cause of action, and that "the present residential house of the defendants was transferred to the present site after plaintiffs sold to defendants a portion of their land, which includes the site of the present house and from and after said sale, defendants have occupied the said portion legally and with the knowledge and consent of plaintiffs." They counterclaimed for damages.

The municipal court's judgment directed defendants to vacate the premises, to pay plaintiffs a monthly rental of P10.00 from April 1, 1958 until possession is restored, and P200.00 as attorneys' fees, and costs.

Defendants, on appeal to the Court of First Instance of Davao, [2] renewed their bid to throw out of court plaintiffs' complaint for want of jurisdiction. Plaintiffs' opposition and defendants' reply thereto were also

submitted.

On December 26, 1963, the Court of First Instance of Davao dismissed the case. The court reasoned out that the suit was one of forcible entry and was started beyond the reglementary one-year period.

Plaintiffs appealed to this Court.

Plaintiffs' position is that the municipal court had original jurisdiction; that consequently the Court of First Instance had appellate jurisdiction. Their theory is that suit was well within the one-year period. They say that the parting date is December 28, 1962, when plaintiffs demanded of defendants to vacate the premises and pay rentals in arrears; and that the complaint was registered in court on January 28, 1963.

Solution of the problem turns on this question: Is the complaint one of forcible entry or unlawful detainer?

1. Section 1, Rule 70 (formerly Section 10, Rule 72) of the Revised Rules of Court, states that a person deprived of possession of land "by force, intimidation, threat, strategy, or stealth," or a person against whom the possession of any land "is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied," may at any time "within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper inferior court against the person or persons unlawfully withholding or depriving of possession." The next legal precept, Section 2 of the same Rule, provides that the landlord may not sue his tenant for ejectment "for failure to pay rent due or to comply with the conditions of his lease, unless the tenant shall have failed to pay such rent or comply with such conditions for a period of fifteen (15) days, or five (5) days in the case of building, after demand therefor, x x x."

It is plain that the foregoing rules define two entirely distinct causes of action, to wit: (a) action to recover possession founded on illegal occupation from the beginning - forcible entry; and (b) action founded on unlawful detention by a person who originally acquired possession lawfully - unlawful detainer.[3]

The law and jurisprudence leave no doubt in our mind that what determines the cause of action is the nature of defendants' entry into the land. If entry is illegal, then the cause of action which may be filed against the intruder within one year therefrom is forcible entry. If, on the other hand, entry is legal but thereafter possession became illegal, the case is one of illegal detainer which must be filed within one year from the date of the last demand.

2. We observe a lack of precision-tooling in the complaint. Defendants' alleged entry into the land is not characterized - whether legal or illegal. It does not say how defendants entered the land and constructed their residential house thereon. It is silent, too, whether possession became legal before plaintiffs made the demand to vacate and to pay rentals.

Nor does the complaint as much as intimate that defendants are plaintiffs' tenants. So that the case would not come within the coverage of Section 2 of Rule 70 (summary action by landlord against tenant).

Failure to specifically aver in the complaint facts which definitely show that plaintiffs' action is for forcible entry or unlawful detainer, is not to be lightly treated. Jurisdiction here - challenged in a motion to dismiss - depends upon factual averments. The jurisdictional facts must appear on the face of the complaint. Where, as here, the only definite ultimate facts averred are that on April 1, 1958, defendants entered upon the land and constructed their residential house thereon, remained in possession thereof, and that demand to vacate and pay rentals only was made on December 28, 1962, well beyond the one-year period, the municipal court of Padada did not have jurisdiction.

The want of jurisdiction is the more accentuated when we consider the facts that surfaced during the trial as found by the municipal court, viz:

"In the course of the hearing of this case it is clear that, according to the plaintiff, Margarito Sarona, the defendants transferred their house on April 1, 1958 to the litigated area which is designated as Lot F, (Ex-hibit 'C-1') without their consent and permission. At that time he was just living 200 meters away from the lot. He requested the defendants not to place the said house in the litigated area but the defendants refused. He did nothing and only on December 28, 1962, when the formal letter of demand to vacate and to pay rental was made by the plain-tiff through their lawyer, Atty. Palabrica, and addressed the said letter to the defendants but the defendants refused to vacate the area and to pay a rental of P20.00. x x x."

It is then too plain for argument that defendants entered the land on April 1, 1958 without plaintiffs' consent and permission; that plain-tiff Margarito Sarona "requested the defendants not to place the said house in the litigated area but the defendants refused."

The findings of the municipal court itself may not be downgraded in the present case. And this, for the reason that the complaint did not specifically state the manner of entry of defendants into the land - legal or illegal. Since the parties went to trial on the merits, and it came to light that defendants' entry was illegal at the inception, the municipal court should have dismissed the case. That court cannot close its eyes to the truth revealed by plaintiffs' own evidence before it. A court of limited jurisdiction, said municipal court should not have proceeded to render an on-the-merits judgment thereon.[4]

Clearly, plaintiffs' case fits in the jurisprudential precept of forcible entry. Because the entry is forcible. Long had it been made evident that in forcible entry cases, no force is really necessary -

"In order to constitute the use of 'force,' as contemplated in this provision, the trespasser does not have to institute a state of war. Nor is it even necessary that he should use violence against the person of the party in possession. The act of going on the property and ex-cluding the lawful possessor therefrom necessarily implies the exertion of force over the property, and this is all that is necessary. Under the statute entering upon the premises by strategy or stealth is equally as obnoxious as entering by force. The foundation of the action is really the forcible exclusion of the original possessor by a person who has entered without right. The words 'by force, intimidation, threat, strategy or stealth' include every situation or con-dition under which one person can wrongfully enter upon real property and exclude another, who has had prior possession, therefrom. If a trespasser enters upon land in open daylight, under the very eyes of the person already clothed with lawful possession, but without the consent of the latter, and there plants himself and excludes such prior possessor from the property, the action of forcible entry and detainer can unquestionably be maintained, even though no force is used by the trespasser other than such as is necessarily implied from the mere acts of planting himself on the ground and excluding the other party."[5]

3. But plaintiffs would want to make out a case of illegal detainer upon their belated claim that they tolerated defendants' possession. To be observed on this point is that there has been no allegation in the complaint, and no showing during the trial in the municipal court, that possession of defendants ever changed from illegal to legal any time from their illegal entry to the demand to vacate. No averment there is in the complaint which recites - as a fact - any overt act on plaintiffs' part indicative of permission to occupy the land. Without resorting to mind-reading, we are hard put to conclude that there was such a change from illegal to legal possession of defendants until the demand to vacate was made.

But even where possession preceding the suit is by tolerance of the owner, still, distinction should be made.

If right at the incipency defendants' possession was with plain-tiffs' tolerance, we do not doubt that the latter may require him to vacate the premises and sue before the inferior court under Section 1 of Rule 70, within one year from the date of the demand to vacate. Because, from the date of demand, possession became unlawful. And the case is illegal detainer.[6]

But will this rule as to tolerance hold true in a case where there was forcible entry at the start, but the lawful possessor did not attempt to oust the intruder for over one year, and only thereafter filed forcible entry suit following demand to vacate?

Professor Arturo M. Tolentino states that acts merely tolerated are "those which by reason of neighborliness or familiarity, the owner of property allows his neighbor or another person to do on the property; they are generally those particular services or benefits which one's property can give to another without material injury or prejudice to the owner, who permits them out of friendship or courtesy." [7] He adds that: "[t]hey are acts of little disturbances which a person, in the interest of neighborliness or friendly relations, permits others to do on his property, such as passing over the land, tying a horse therein, or getting some water from a well." And, Tolentino continues, even though "this is continued for a long time, no right will be acquired by prescription." [8] Further expounding on the concept, Tolentino writes: "There is tacit consent of the possessor to the acts which are merely tolerated. Thus, not every case of knowledge and silence on the part of the possessor can be considered mere tolerance. By virtue of tolerance that is considered as an authorization, permission or license, acts of possession are realized or performed. The question reduces itself to the existence or non-existence of the permission." [9]

A close assessment of the law and the concept of the word "toler-ance" confirms our view heretofore expressed that such tolerance must be present right from the start of possession sought to be re-covered, to categorize a cause of action as one of unlawful detainer - not of forcible entry. Indeed, to hold otherwise would espouse a dangerous doctrine. And for two reasons: First. Forcible entry into the land is an open challenge to the right of the possessor. Violation of that right authorizes the speedy redress - in the inferior court - provided for in the rules. If one year from the forcible entry is allowed to lapse before suit is filed, then the remedy ceases to be speedy; and the possessor is deemed to have waived his right to seek relief in the inferior court. Second. If a forcible entry action in the inferior court is allowed after the lapse of a number of years, then the result may well be that no action of forcible entry can really prescribe. No matter how long such defendant is in physical possession, plaintiff will merely make a demand, bring suit in the inferior court - upon a plea of tolerance to prevent prescription to set in - and summarily throw him out of the land. Such a conclusion is unreasonable. Especially if we bear in mind the postulates that proceedings of forcible entry and unlawful detainer are summary in nature, and that the one year time-bar to the suit is but in pursuance of the summary nature of the action. [10]

It is well to remember that after the lapse of the one year period, suit must be started in the Court of First Instance in an accion publiciana.

Jurisdiction in the case before us is with the Court of First Instance.

For the reasons given, the order of the Court of First Instance of Davao of December 26, 1963 dismissing the case for want of jurisdiction in the Municipal Court of Padada, is hereby affirmed.

Costs against plaintiffs-appellants.

SO ORDERED.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Zaldivar, Angeles, and Fernando, JJ., concur.

Castro, J., did not take part.

Concepcion, C.J., on leave.

[1] Civil Case 164, Municipal Court of Padada, Davao, entitled "Margarito Sarona, Antero Sarona, Ireneo Sarona, Lucila Sarona, Francisco Sarona, Felisa Sarona, and Montana Sarona, Plaintiffs, vs. Felipe Villegas and Ramona

Carillo, Defendants.

[2] Civil Case 4184, Court of First Instance of Davao - Sarona, et al., plaintiffs, versus Villegas, et al., defendants.

[3] Medel vs. Militante, 41 Phil. 526, 530; Dy Sun vs. Brillantes, 93 Phil. 175, 177.

[4] Cf. Iñigo vs. Estate of Adriana Maloto, G.R. No. L-24384, September 28, 1967, citing cases.

[5] Mediran vs. Villanueva, 37 Phil. 752, 756-757, quoted with approval in Santos vs. Santiago, 38 Phil. 575, 577-578.

[6] 3 Moran, Comments on the Rules of Court, 1963 ed., p. 287, citing Minute Resolution in Amis vs. Aragon, G.R. Nos. L-4735-4736-4684, April 28, 1951.

[7] II Tolentino, Civil Code of the Philippines, 1963 ed., p. 227, citing 1 Ruggiero 843; emphasis supplied

[8] Id., citing 2-11 Colin & Capitant 911; emphasis supplied.

[9] Ibid; emphasis supplied.

[10] Monteblanco vs. Hinigaran Sugar Plantation, 63 Phil. 797, 802-803.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.