

**SPS. WILFREDO PEREA, AND ANNE PEREA, PETITIONERS, VS.
ANICETA P. SORIANO, REPRESENTED BY HER ATTORNEYS-IN-FACT
CORAZON BALTAZAR AND/OR TEODORA SORIANO, RESPONDENT.**

Ponente: DACUDAO, J.

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DACUDAO, J.:

This appeal by petition for review seeks to overturn: (1) The Decision rendered on December 22, 2005[1] by the Regional Trial Court (or RTC) of Olongapo City, Branch 75, which affirmed the decision dated March 7, 2005[2] of the Municipal Trial Court (MTC) of Subic, Zambales, in Civil Case No. 011-04; and (2) The RTC's Order dated March 3, 2006,[3] denying petitioners' motion for reconsideration thereon.

On August 26, 2004, respondent Aniceta Soriano, as therein plaintiff, represented by one of her attorneys-in-fact Teodora Soriano, filed before the MTC of Subic a complaint[4] for unlawful detainer against the petitioners-spouses Wilfredo and Anne Perea (her real name appears to be Victoriana), therein defendants. This was docketed as Civil Case No. 011-04.

In said complaint, therein plaintiff Aniceta alleged that she is the owner and legal possessor of a parcel of land situated at Ilwas, Subic, Zambales as evidenced by a tax declaration in her name, a copy of which was thereto appended as Annex B; that she allowed therein defendants to occupy a portion thereof on condition that they would vacate the premises when needed by her or her children; that this arrangement was reduced into writing, a copy of which was attached thereto as Annex C; that, because her children already needed the premises, she demanded that therein defendants vacate the premises, but they refused to do so; and that, after her formal demand was ignored, she brought the matter before the barangay authorities for conciliation, but no settlement was reached there, hence, the instant case with a prayer for payment of rental and attorney's fees.

Annex B is numbered 009-0408 for the year 1994 and concerns a parcel of land described as Cadastral Lot Nos. 3171 & 3302, under Plan Psu-239790, with an area of 640 square meters, bounded on the north by Lot 071; on the south-east by Lot 073; and on the north-west by the national road. Also declared for taxation together with the land is a house.

Annex C was executed by a certain Herminia Perea and therein defendant Anne Perea on March 14, 1995 and ratified before Atty. Leonardo U. Afafe. It reads:

"IPINAGBIBIGAY ALAM SA LAHAT:

"Kami sina HERMINIA C. PEREA, 43 taong gulang, Filipino, asawa ni Danilo Perea at naninirahan sa Iluas, municipio ng Subic, Zambales at si ANNE O. PEREA, 38 taon gulang, Filipino, asawa ni Freddie Perea at naninirahan sa Iluas, municipio ng Subic, Zambales, nasasabi nang ganito:

"Kami ay naninirahan sa lupaing ni Gg. Aniceta P. Soriano, na aming tia, duong sa Iluas, municipio ng Subic, Zambales, na may description nang ganito: 'Na may laki nang Anim napongdaan at Apat napo (640) metro cuadrado. Napaliguiran sa Timog Silangan; Kanluran; at Lubugan ay Lote No. 071, Lote No. 073; at National Road, sunog-sunong. Na may declaracion No. 002-624, na may assessment na P11,900.00 na Cadastro Lote

No. 3171 at 3302.'

"Na kami ay mayroon na tiangue isang bahay na (light materials);

"Na kami ay maninirahang doon sa lupa ni Gg. Aniceta P. Soriano habang hindi pa kinakailangan nang may ari. At kung kinakailangan na nang may-ari o ang kanyang mga anak ay kusang loob na kami ay aalis.

"At kami ay lumagda dito sa kasunduan ito na walang nanakot o pomierza sa amin.

"Nilagdaan naming itong kasunduan ito nitong Marzo 14, 1995 sa Subic, Zambales.

"(Sgd) HERMINIA C. PEREA "

"Lumagda

(Sgd) ANNE O. PEREA

"Lumagda"

(Acknowledgment is omitted.)

In traverse, therein defendants countered in their answer[5] that therein defendant Wilfredo Perea's uncle, Mauricio Perea, Jr, is the true owner of the lot in question, as shown by the deed of absolute sale; that therein defendant Wilfredo Perea has been residing on the lot since he was born; that, when he already had his own family, he asked permission from his said uncle to build his house on the aforementioned lot, and he was allowed to do so; and that no one disturbed him in his possession until his uncle's death in December 1995.

During the pre-trial, the parties entered into the following stipulations:

- That the parties are relatives;
- That before the case was filed in court, the matter was brought to the office of the barangay authorities of Ilwas, Subic, Zambales;
- That a Certification to File Action was issued;
- That earnest effort toward a compromise or settlement, was exerted by the respondent, which explains why the matter was brought to the Office of the Municipal Mayor of Subic, Zambales as borne out by the minutes of the dialogue dated July 30, 2004; and,
- That the respondent knows petitioner Wilfredo Perea to be the brother of Danilo Perea.

Thereafter, the parties submitted the following issues for resolution:

- Whether therein plaintiff is entitled to the possession of the disputed premises and whether therein defendants continue to stay in the said premises; and
- Whether the parties are entitled to their respective claims for damages.

In her verified position paper,[6] therein plaintiff Aniceta Soriano contended that the ownership and the legal possession of the land pertains to her exclusively, as she has in her favor a notarized deed of renunciation and quitclaim dated June 22, 1984 executed by Mauricio Perea, Jr. himself.

The document adverted to states:

"KNOW ALL MEN BY THESE PRESENTS:

"This Deed of Renunciation and Quit-Claim made and entered into on this 22nd day of June 1984 at Subic, Zambales, Philippines by and between MAURICIO PEREA, JR., of legal age, Filipino, single and with

residence and postal address at Brgy. Ilwas, Subic, Zambales, hereinafter referred to as TRANSFEROR, and ANICETA P. SORIANO, his legitimate sister, likewise of legal age, Filipino, married to Rodolfo E. Soriano and with residence and postal address at Brgy. Baraka, Subic, Zambales, hereinafter referred to as the TRANSFEREE.

“WITNESSETH:

“1. That the TRANSFEROR is the lawful possessor of a residential lot and residential house more particularly described as follows: “A parcel of residential lot located at Brgy. Ilwas, Subic, Zambales. Bounded on the North, by Tomas Garcia, on the South, by Severino Salang, on the East, by Felipe Flores and on the West, by Provincial Road. Containing an area of SIX HUNDRED SEVENTY NINE (679) SQUARE METERS, more or less. Declared under Tax Declaration No. 6301, assessed at P8,150.

“A residential house constructed of concrete and light wood materials under G.I. roof. Erected on above described lot. Containing a total floor area of square meters. Declared under T.D. No. 4250, assessed at P1,200.00 for the year beginning 1980.

“2. That the TRANSFEROR is desirous to renounce and forever Quit-Claim all his rights, interests, and participation in the said parcel of land and residential house by virtue of his rights as lawful possessor thereof in favor of the TRANSFEREE.

“3. That thru this Deed, the TRANSFEROR hereby waive, renounce, transfer, convey and forever Quit-Claim all his rights, interests and participations in the said parcel of land and residential house described above in favor of the TRANSFEREE.

“IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of June 1984 at Subic, Zambales, Philippines.

“(Sgd) ANICETA P. SORIANO “

“Transferee

(Sgd) MAURICIO PEREA, JR.

“Transferor”

Therein plaintiff Aniceta Soriano further argued that, since therein defendants are mere possessors by tolerance, they were necessarily bound by an implied promise to vacate the disputed premises upon demand, failing which a summary action for ejectment is a proper remedy, adverting to *Vda. de Catchuela v. Francisco*;^[7] that it is not necessary that there be a formal agreement or contract of lease before an unlawful detainer suit may be filed against therein defendants; and that in an ejectment suit prior physical possession of the disputed premises by her is not an indispensable requisite, relying on *Peran v. Presiding Judge, Br. II, CFI of Sorsogon*.^[8]

Finally, therein plaintiff Aniceta Soriano asserted that therein defendants themselves recognized her title to the disputed premises, and in fact undertook to vacate the same upon demand under an agreement which the latter executed for her benefit.

In contrast, therein defendants in their verified position paper^[9] argued that therein defendant Wilfredo Perea had no contract with therein plaintiff Aniceta P. Soriano regarding the use by him of the disputed premises; that he (defendant Wilfredo Perea) occupied the premises with the permission of Mauricio Perea, Jr.; that neither he nor his siblings considered their aunt, therein plaintiff Aniceta, to be the owner of the disputed premises; that since his possession is traced from Mauricio Perea, Jr., therein plaintiff Aniceta’s claim of tolerance cannot be deemed to be present from the start, hence, a suit for unlawful detainer will not lie; that, as to therein defendant Anne Perea, her right to possession is derived from her marriage to him (Wilfredo Perea), and not by virtue of any contract

with therein plaintiff Aniceta; and that therein plaintiff Aniceta failed to prove her ownership over the disputed premises, because the tax declarations in her name are not valid proof of such ownership.

Appended to the position paper were the affidavit of therein defendant Wilfredo Perea and those of his sister Rebecca Perea-Renojo and Rose Rosende, all tending to attest to the truth of the foregoing averments.

Upon these facts, the MTC gave judgment,[10] dispositively decreeing, thus:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants:“1. For the Defendants to vacate the property;

“2. For the Defendants to pay the Plaintiff the monthly rental of P1,000.00 reckoned from June 01, 2004 until the plaintiff shall be placed in possession of the property;

“3. For the Defendants to pay attorney’s fees in the amount of P5,000.00;

“4. To pay the costs.

“SO ORDERED.

“GIVEN this 7th day of March, 2005 at Subic, Zambales, Philippines.

“(SGD.) MIGUEL F. FAMULARCANO, JR.

“Judge”

In holding for therein plaintiff Aniceta Soriano, the MTC upheld the agreement under which both defendants recognized therein plaintiff Aniceta’s title over the disputed premises and pursuant to which both defendants undertook to vacate the same upon demand, with the MTC declaring said covenant as the law between the parties.

The MTC also ruled that therein defendants, as mere tenants in the disputed premises, are not permitted to deny the title thereto of therein plaintiff Aniceta P. Soriano.

Unable or unwilling to accept this disposition, the petitioners appealed to the RTC.

In their appeal memorandum,[11] therein defendants argued that only Herminia Perea and therein defendant Anne Perea executed the aforementioned agreement; hence, it is not surprising at all that the husbands of these two, namely: Danilo Perea and therein defendant Wilfredo Perea, were not made parties thereto because Danilo and Wilfredo had grown up together and had known that it was their uncle Mauricio Perea, Jr. who was the true owner of the property.

Therein defendants also claimed that therein defendant Wilfredo Perea never entered into any contract with his aunt, therein plaintiff Aniceta P. Soriano, regarding the use by him of the premises; that his (Wilfredo's) possession thereof is by virtue of the tolerance extended to him by his uncle Mauricio Perea, Jr.; and that, because of this, the tolerance shown by therein plaintiff Aniceta P. Soriano cannot be considered to have been present right from the start.

But in a decision dated December 22, 2005,[12] the RTC affirmed the MTC.

Petitioners moved for reconsideration thereon,[13] but the RTC stood pat on its position.

Hence, the present recourse with therein defendants, now the herein petitioners, presently contending that the RTC erred in affirming the MTC.

The petition will not prosper.

Petitioners posit that respondent Aniceta Soriano is not the owner of the property. They assail as fictitious the deed of quitclaim or renunciation executed by Mauricio Perea, Jr. in favor of said respondent. They insist that neither the said deed of quitclaim or renunciation, nor the tax declarations, constituted sufficient proof of ownership over the disputed premises, absent a showing that said respondent had obtained a torrens title to the disputed premises.

Petitioners also assert that their possession cannot be deemed as merely “tolerated” because they obtained permission to occupy the disputed premises from Mauricio Perea, whom they considered to be the true owner thereof.

Petitioners also argue that the agreement executed by petitioner Anne did not bind petitioner Wilfredo because he was not a party thereto. They maintain that it is quite understandable that the petitioner Wilfredo was not made a party to the agreement because he grew up knowing that the owner of the disputed premises was his uncle Mauricio.

Finally, petitioners posit that, since the petitioner Wilfredo had occupied the disputed premises long before respondent became the owner thereof, tolerance by respondent of petitioner Wilfredo’s possession cannot be considered to have been present from the start.

These arguments do not persuade.

Firmly entrenched is the rule that a person who occupies the land of another at the latter’s tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which, a summary action for ejectment may be filed against him.[14]

We hold that, the respondent Aniceta P. Soriano is entitled to the remedy of ejectment upon the aforementioned ground, having proved that she has a just title to the disputed premises,— this just title consisting of the deed of quitclaim or renunciation that Mauricio Perea, Jr. executed in her favor; that, upon acquiring possession of the disputed premises, she merely tolerated, or allowed, the petitioners to stay on the disputed premises, subject to the condition that the latter would vacate the same upon demand; and that she later ended or terminated her tolerance, as indeed she demanded and insisted that the petitioners leave the disputed premises.[15]

It cannot escape notice that the quitclaim or renunciation executed by Mauricio Perea, Jr., in favor of the herein respondent Aniceta P. Soriano being a notarized document, enjoys the presumption of regularity. It is prima facie evidence of the facts therein stated. To overcome this presumption, countervailing evidence, at once both clear and convincing, must be adduced. In default of such evidence, as in this case, the presumption must be upheld.[16]

A bit misplaced is petitioners' reliance on *Suntay*. The factual underpinnings of that case, which involved simulation of contract, will not support the present case, which is cast against a disparate factual backdrop. At any rate, the issue that the quitclaim or renunciation made by Mauricio Perea, Jr. is fictitious, was not raised below, and cannot be raised for the first time in this Court,[17] as that would be offensive to the basic tenets of fairplay.

On the other hand, the tax declaration/s in respondent’s name, whilst not conclusive evidence of ownership, constitute proof that she has, at the very least, a claim of title over the disputed premises.[18]

In regard to the petitioners' contention that respondent ought to allow, or tolerate, their continuing presence in, or possession of, the disputed premises, we take the liberty of quoting herein respondent's very pointed comment in her position paper: “After plaintiff’s acquisition of the property subject matter of this controversy, defendants were permitted to occupy a portion of the said property, however, it was made clear to defendants that they we’ll

be allowed to remain in the afore-stated premises under the condition that they will leave the same when the plaintiff and their children will be needing the said property for their own use and benefit. Defendants assented to this condition. The defendants herein even signed a document recognizing the ownership of the plaintiff over the property and binding themselves to vacate the same when required by the herein plaintiff.” It is significant to note that the points so raised were never successfully refuted by petitioners.

Even as “tolerance” need not be in writing, it bears notice that a written agreement embodying the permission to use the property serves to reinforce its binding effect.[19] This principle applies with implacable force to the case at bench.

The fact that in this case the petitioners claimed to have been already in possession of the disputed premises at the time respondent acquired a just title thereto,— a just title that conduces to and promotes a claim of ownership,— is hardly any impediment to— but, on the contrary, even enhances— the success of an unlawful detainer suit. Indeed, prior physical possession by the plaintiff is not required in unlawful detainer.[20]

In *Ross Rica Sales Center, Inc. v. Ong*,[21] and earlier on, in *Peran v. Presiding Judge, Br. II, CFI of Sorsogon*,[22] therein plaintiffs were held entitled to the remedy of ejectment on the basis of tolerance, this despite the fact that the therein defendants were already in possession of the disputed premises at the time the therein plaintiffs acquired title to, or came into possession of, the disputed premises.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition at bench must be, as it hereby is, DENIED DUE COURSE and consequently DISMISSED. Costs shall be taxed against petitioners.

SO ORDERED.

Carandang and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 111-115. Penned by Judge Avelino A. Lazo.

[2] *Id.*, pp. 82-86. Penned by Judge Miguel F. Famularcano, Jr.

[3] *Id.*, pp. 122. Again penned by Judge Lazo.

[4] *Id.*, pp. 29-32.

[5] *Id.*, pp. 40-41.

[6] *Id.*, pp. 61-72.

[7] 98 SCRA 172 (1980).

[8] 125 SCRA 78 (1983).

[9] Rollo, pp. 51-56.

[10] *Supra*, note 2.

[11] Rollo, pp. 92-98.

[12] *Supra*, note 1.

[13] Rollo, pp. 116-119.

[14] *Rivera v. Rivera*, 405 SCRA 466 (2003).

[15] *Cf. Arambulo v. Gungab*, 471 SCRA 640, 649 (2005).

[16] *Ceballos v. Intestate Estate of the Late Emigdio Mercado*, 430 SCRA 323, 335 (2004). Sections 23 and 30, Rule 132 of the Revised Rules of Court pertinently provide:

“SECTION 23. Public documents as evidence. – Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.”

“SECTION 30. Proof of notarial documents. Every instrument duly acknowledged or proved and certified as provided by law, may be presented in evidence without further proof, the certificate of acknowledgment being prima facie evidence of the execution of the instrument or document involved.”

[17] Refer to *Ganila v. Court of Appeals*, 461 SCRA 435, 446 (2005).

[18] See *Ganila v. Court of Appeals*, *supra*.

[19] See *Pajuyo v. Court of Appeals*, 430 SCRA 492, 519 (2004).

[20] *Rivera v. Rivera*, *supra*, note 15.

[21] 467 SCRA 35 (2005).

[22] *Supra*, note 8.

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