

REYNALDO CARCEDO AND ALL PERSONS CLAIMING RIGHTS UNDER HIM, PETITIONER, VS. MAGTANGGOL T. GUNIGUNDO, REPRESENTED BY HIS ATTORNEY-IN-FACT MARCELO M. NAVARETTE, RESPONDENT.

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

This is a Petition for Review[1] of the Decision[2] of the Regional Trial Court (RTC), Branch 11, of Malolos City in Civil Case No. 244-M-2011 reversing the decision of the Municipal Trial Court (MTC) of San Miguel, Bulacan, in Civil Case No. 2769, with prayer for issuance of temporary restraining order and/or writ of preliminary injunction.

The Antecedent Facts

A Complaint[3] was filed by respondent Magtanggol Gunigundo (Gunigundo) through his attorney-in-fact Marcelo Navarette (Navarette) against petitioner Reynaldo Carcedo (Carcedo) on 20 October 2010 in the MTC of San Miguel, Bulacan for Ejectment docketed as Civil Case No. 2769.

After the parties filed their respective position papers,[4] the MTC rendered its decision[5] on 14 March 2011, viz:

WHEREFORE, judgment is hereby rendered DISMISSING the complaint for failure of the plaintiff to allege and prove prior physical possession to make out a case for forcible entry; and, likewise to prove that tolerance was present at the start of defendant's occupancy to make out a case for unlawful detainer, tantamount to lack of cause of action for both kinds of ejectment against the defendant; with costs against plaintiff.

SO ORDERED.[6]

Aggrieved, respondent appealed[7] to the RTC which reversed the MTC in its decision dated 3 October 2011,[8] viz:

“WHEREFORE, judgment is hereby rendered REVERSING and SETTING ASIDE the appealed decision and ordering the defendant and all persons claiming rights under him, as follow:

(1) To vacate the lot in question and remove all buildings built thereon;

(2) To return the possession of the subject lot to the plaintiff;

(3) To pay plaintiff the sum of P10,000.00 a month for the use and occupancy of the lot from date of demand until the possession of the lot to the plaintiff is fully restored.

SO ORDERED.”[9]

The Antecedents

From his position paper, it was gathered that respondent Gunigundo, through his attorney-in-fact Navarette, claims ownership of a parcel of residential land located at Poblacion, San Miguel, Bulacan with an area of 464 square meters and covered by Transfer Certificate of Title No. T-69168 of the Registry of Deeds of Bulacan.[10] He alleged that petitioner, through stealth, strategy and misrepresentation and without the knowledge, consent and authority of the respondent, entered and built his residential house in the subject property. Respondent learned of petitioner’s acts only in 2010.[11]

When respondent demanded that petitioner leave, vacate and remove his house and other structures he had built on the land as he needed the same, the latter refused and ignored the former’s verbal and written demands. Even the intercession and mediation of the Lupon/Pangkat ng Barangay Poblacion, San Miguel, Bulacan between the parties proved futile.[12]

On the other hand, petitioner Carcedo claims to be the lawful and possessor in good faith of the disputed property. The original lawful owner of the subject residential land covered by Original Certificate of Title Nos. 10350 and 10351 was Maria Esguerra. When Esguerra died, the subject land was inherited by her heir Miguel Siojo, Jr. The property in question was then transferred and conveyed by Siojo, Jr. in favor of Emanuel Castro as borne by OCT No. 10351.[13]

According to petitioner, he and his parents came into actual possession of the land when they were contracted by Castro in 1960. That same year his parents constructed their house on the land. By virtue of the agreement between the petitioner’s parents and Castro, they introduced improvements thereon upon occupation.[14]

In dismissing the case, the MTCC held that there is no allegation in either the complaint or in respondent’s position paper to categorically show that he had prior physical possession of the lot in question when he was dispossessed thereof by petitioner. Neither was there any evidence adduced by respondent to prove his prior physical possession at the time of the alleged forcible entry by petitioner. On the contrary, it was petitioner who claims continuous physical possession of the property since forty (40) years ago through his parents which respondent did not rebut. Since petitioner’s possession of the property antedates that of respondent’s, an action for forcible entry against the petitioner will not succeed.[15]

Another point against the respondent is the allegation in his position paper of tolerated occupancy which is an element to make out a case for unlawful detainer. The MTC held that to justify an action for unlawful detainer based on tolerance, the permission must have been present at the beginning of the possession; otherwise, if the possession was unlawful at the start, an action for unlawful detainer would be an improper remedy.[16]

However, on appeal, the RTC reversed the MTCC and ruled that the action for ejectment for forcible entry was validly filed. In sustaining the private respondent’s complaint, the RTC held that possession can be acquired by

material occupation or by the execution of proper acts or legal formalities to make the acquisition of such right feasible. The owner is not required to actually or physically occupy the property before he can be considered in possession. Following this ruling, any occupancy of a real property without the consent or permission of the owner comes within the purview of unlawful entry as envisioned in Section 1, Rule 70 of the Rules of Court. Simply stated, respondent was well within his rights as registered owner to seek the eviction of the petitioner from the property after he learned of the intrusion into his land and after his verbal and written demands to vacate the same went unheeded by the petitioner.[17]

Moreover, the RTC stated that, viz:

Unlawful detainer also lies in the case. From the defendant's own admission, his parents came to occupy the property in question with the permission of Emmanuel Castro, the supposed owner which (sic) possession he appeared to have carried on up to the present time. Clearly then, since defendant's possession of the land is by mere tolerance, such carries the implied promise or commitment to vacate upon demand which obligation, as the Court sees it, holds true, even in the event of changes in the ownership thereof takes place. Corollary to this, inasmuch as plaintiff as the present registered owner merely stepped into the shoes, so to speak, of his predecessor-in-interest, be it Castro or any other person, the concept of tolerance attributable to the former owner by which defendant claimed to have entered the disputed lot, from the legal viewpoint, is still applicable with regard to former's relationship vis-a vis the latter over said property for which plaintiff could rightfully file an action for ejectment anchored on unlawful detainer. To hold otherwise would necessarily result in withholding from the owner the most expeditious way in recovering possession of his property from a deforciant charged, in the first place, under the law with the responsibility of turning possession of said lot over to the owner, once demand to vacate is made and from which time, his possession or detainer becomes illegal. (Go, Jr. vs Court of Appeals, 362 SCRA 755). To hold otherwise is to unduly encumber plaintiff's right as the owner to exercise or avail of the attributes of ownership, specifically, the right to enjoy his lot.[18]

Hence, the instant petition for review.

Issue

The sole issue submitted to this Court for resolution is:[19]

WHETHER OR NOT THE REGIONAL TRIAL COURT GRAVELY ERRED IN REVERSING THE DECISION OF THE MUNICIPAL TRIAL COURT AND IN NOT FINDING THAT THE RESPONDENT HAS NO CAUSE OF ACTION AGAINST THE PETITIONER FOR EJECTMENT

On 19 March 2012, the Court resolved to deny the injunctive relief prayed for by petitioner after finding that there is no actual and existing right in his favor that would require these reliefs.[20] The consequent motion for reconsideration[21] was likewise denied.[22]

The Ruling of This Court

The petition has no merit.

The case filed by respondent against the petitioner and subject of this petition is one for ejectment. Unlawful detainer and forcible entry suits under Rule 70 are designed to summarily restore physical possession of a piece of land or building to one who has been illegally or forcibly deprived thereof, without prejudice to the settlement of the parties' opposing claims of juridical possession in appropriate proceedings. These actions are intended to avoid disruption of public order by those who might take the law in their hands purportedly to enforce their

claimed right of possession.[23]

Forcible entry and unlawful detainer cases are two distinct actions defined in Section 1, Rule 70 of the Rules of Court. In forcible entry, one is deprived of physical possession of land or building by means of force, intimidation, threat, strategy, or stealth. In unlawful detainer, one unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. In forcible entry, the possession is illegal from the beginning and the basic inquiry centers on who has the prior possession de facto. In unlawful detainer, the possession was originally lawful but became unlawful by the expiration or termination of the right to possess, hence the issue of rightful possession is decisive for, in such action, the defendant is in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.[24] Plainly stated, the only issue to be resolved in ejectment cases is the question as to who is entitled to the physical or material possession of the premises or possession de facto.[25]

What determines the cause of action is the nature of defendant's entry into the land. If the entry is illegal, then the action which may be filed against the intruder within one year therefrom is forcible entry. If, on the other hand, the entry is legal but the possession thereafter became illegal, the case is one of unlawful detainer which must be filed within one year from the date of the last demand.[26]

The MTC dismissed the Complaint for Ejectment since it believed that it was the petitioner who had prior possession of the disputed property, hence an action for forcible entry against the petitioner will not succeed. It also held that neither is respondent entitled to an action for unlawful detainer because to justify an action for unlawful detainer based on tolerance, the permission must have been present at the beginning of the possession; otherwise, if the possession was unlawful at the start, an action for unlawful detainer would be an improper remedy. According to the trial court, this is tantamount to lack of cause of action.

We disagree.

A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following: (1) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff; (2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession; (3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and (4) within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.[27]

Here, the Complaint shows that respondent alleged that he is the owner of the lot, as shown by TCT No. T-69168, issued by the Registry of Deeds of Bulacan; that petitioner is occupying the lot by virtue of respondent's tolerance; and that respondent sent a letter to petitioner on 6 August 2010, demanding that he vacate the property, but the latter failed and refused to do so. The complaint was filed on 20 October 2010, or within one year from the time the last demand to vacate was made. Clearly, respondent's complaint sufficiently made a case for unlawful detainer against the petitioner.

Long settled is the rule that in unlawful detainer, prior physical possession by the plaintiff is not necessary. It is enough that plaintiff has a better right of possession. Actual, prior physical possession of a property by a party is indispensable only in forcible entry cases. In unlawful detainer cases, the defendant is necessarily in prior lawful possession of the property but his possession eventually becomes unlawful upon termination or expiration of his right to possess. Thus, the fact that petitioner is in possession of the lot does not automatically entitle him to remain in possession. And the issue of prior lawful possession by the defendants does not arise at all in a suit for unlawful detainer, simply because prior lawful possession by virtue of contract or other reasons is given or admitted, unlike in forcible entry where defendants, by force, intimidation, threat, strategy or stealth, deprive the

plaintiff or the prior physical possessor of possession.[28]

Petitioner did not dispute that respondent has TCT No. T-69168 issued in his name over the subject property. Relevant thereto is the fundamental principle in land registration that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein.[29] It is conclusive evidence with respect to the ownership of the land described therein.[30] Further, the age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof.[31] In the 2007 case of Pascual vs. Coronel,[32] the Supreme Court upheld the registered owners' superior right to possess the property.

In the case at bar, the RTC correctly ruled that possession can be acquired by material occupation or by the execution of proper acts or legal formalities which make the acquisition of such right feasible and by which, in legal contemplation, the thing is subject to the action of one's will or disposition as owner.[33] For the purpose, the owner is not required to actually or physically occupy the property before he can be considered in possession. In the instant case, respondent has indubitably established his material occupation over the subject property and subjecting it to the action of his will. Verily, there is really no question at all that respondent was well within his rights as the registered owner of the property to seek the eviction of the petitioner after he came to learn of the intrusion into his land after his verbal and written demands were ignored by the latter. Having no title or document to overcome respondent's ownership over the land in question, petitioner is therefore an intruder whose occupation of the land is merely being tolerated. An intruder has no possessory rights over the land intruded upon. As such, petitioner's occupancy of the land is only at the owner's sufferance, his acts are merely tolerated and cannot affect the owners' possession. He is necessarily bound to an implied promise that he will vacate upon demand.[34]

In addition, as the registered owner, respondent has an imprescriptible right to evict any person illegally occupying his property.[35] Even if it be supposed that he was aware of the petitioners' occupation of the property, and regardless of the length of that possession, the lawful owner has a right to demand the return of his property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.[36] Thus, when respondent demanded in writing that petitioner vacate the disputed property, the latter's right of possession became illegal. As the registered owner of the property being unlawfully detained by petitioner against him, and with the complaint filed by him sufficiently alleging a cause of action for unlawful detainer, respondent cannot be denied possession considering that while possession is the main issue in ejectment, it is also one of the essential attributes of ownership. It therefore follows that an owner of real property is entitled to possession of the same. Indeed, an owner who cannot exercise the seven "juses" or attributes of ownership — the right to possess, to use and enjoy, to abuse or consume, to accessories, to dispose or alienate, to recover or vindicate and to the fruits — is a crippled owner.[37]

All told, We find that the Regional Trial Court acted correctly in reversing the decision of the MTCC and in finding that the complaint instituted by the respondent sufficiently alleged a cause of action for unlawful detainer against the petitioner. As aptly stated by the RTC in its Decision, wiz:

On the validity of the action for ejectment for forcible entry, jurisprudence is to the effect that possession can be acquired by material occupation or by the execution of proper acts or legal formalities which make the acquisition of such right feasible and by which, in legal contemplation, the thing is subject to the action of one's will or disposition as owner. For the purpose, it is held that the owner is not required to actually or physically occupy the property before he can be considered in possession. (Benitez v. Court of Appeals, 266 SCRA 242, 248, 249). Following this ruling, it stands to reason that any occupancy of a real property without the consent or permission of the owner comes within the purview of unlawful entry in the manner envisioned

in Sec. 1, Rule 70 of the Revised Rules of Court which entitles the plaintiff to seek relief in accordance therewith. In short, plaintiff was well within his right as the registered owner to seek the eviction of the defendant from the property in question after he came to learn of the intrusion into his land and after his demands to vacate the same, both written and oral went unheeded by the latter.[38]

WHEREFORE, premises considered, the instant petition is hereby DENIED for lack of merit. The assailed 3 October 2011 Decision of the Regional Trial Court, Branch 11, Malolos City, is AFFIRMED in toto.

SO ORDERED.

Dimaampao, (Chairman), and Sadang, JJ., concur.

[1] Under Rule 42 of the 1997 Rules of Court.

[2] Rollo, pp. 84-86.

[3] Id., pp. 25-28.

[4] Id., pp. 46-51 for the plaintiff-respondent; pp. 52-57 for defendant-petitioner.

[5] Id., pp. 58-62.

[6] Id., p. 62.

[7] Id., p. 46.

[8] Id., pp. 84-86.

[9] Id., p. 86.

[10] Id., p. 32.

[11] Id., pp. 47-48.

[12] Id., p. 48.

[13] Id., p. 53.

[14] Id.

[15] Id., p. 61.

[16] Id.

[17] Id., p. 85.

[18] Id.

[19] Id., pp. 12-13.

[20] Id., pp. 148-150.

[21] Id., pp. 152-154.

[22] Id., pp. 160-161.

[23] Yolanda Palattao vs. The Court of Appeals, Hon. Antonio J. Fineza, as Presiding Judge of the Regional Trial Court of Caloocan City, Branch 131 and Marcelo Co, G.R. No. 131726, 7 May 2002, 381 SCRA 681.

[24] Florentino Go, Jr., Ma. Luzviminda Go, Leonida Go, Felipe Go, Marietta Go, Roberto Go, Estrelita Go, Antonio Go, Alberto Go, Baby Lucila Go and Manuel Go vs. Hon. Court of Appeals and Aurora I. Perez, G.R. No. 142276, 14 August 2001, 362 SCRA 755.

[25] Go, et al., vs. CA and Perez, supra.

[26] Eufemia Sarmiento vs. Court of Appeals and Generosa S. Cruz, G.R. No. 116192, 16 November 1995, 250 SCRA 108; Go, et al., vs. CA and Perez, supra.

[27] Sps. Vicente Dionisio and Anita Dionisio vs. Wilfredo Linsangan, G.R. No. 178159, 2 March 2011, 644 SCRA 424; Rosa delos Reyes, vs. Spouses Francisco Odone and Arwenia Odone, Noemi Otales, and Gregorio Ramirez, G.R. No. 178096, 23 March 2011, 646 SCRA 175.

[28] Rene Ganila, * Eduardo Dumada-og, Sr., Rafael Ganila, Jose Pastrana, Lourdes Ganila, Florentino Ganila, Serafin Ganila, Loreto Arellano, Conrado Ganila, Vivencio Alvior, Eduardo Gantala, Amparo Villanueva, Eleuterio Silva, Adelina Ganila, Felizardo Ganila, Sr., Enrique Ganila, Abraham Tanong, Emilio Alfaras, Jr., Baptist Christian Learning Center vs. Hon. Court of Appeals and Violeta C. Herrera, G.R. No. 150755, 28 June 2005, 461 SCRA 435.

[29] Manuel Catindig, represented by his legal representative Emiliano Catindig-Rodrigo, vs. Aurora Irene Vda. de Meneses, G.R. No. 165851, 2 February 2011, 641 SCRA 350; Silvino Roxas, Sr., represented by Felicisima Villafuerte Roxas vs. Court of Appeals and Aurora Irene Vda. de Meneses, G.R. No. 168875, 2 February 2011, 641 SCRA 350, citing the case of Elinel Caña vs. Evangelical Free Church of the Philippines, G.R. No. 157573, 11 February 2008, 544 SCRA 225, 238.

[30] Catindig vs. Meneses, supra, citing Asuncion Urieta Vda. de Aguilar, represented by Orlando U. Aguilar vs. Spouses Ederlina B. Alfaro and Raul Alfaro, G.R. No. 164402, 5 July 2010, 623 SCRA 350.

[31] Caña vs. Evangelical Free Church of the Philippines, supra note 28, at 238-239.

[32] G.R. No. 159292, 12 July 2007, 527 SCRA 474, 483 cited in Catindig vs. Meneses, supra.

[33] Bukidnon Doctors' Hospital, Inc. vs. Metropolitan Bank & Trust Co., G.R. No. 161882, 8 July 2005; Virginia Perez Claudio, Represented by Ernesto Brosas, as Attorney-in-fact vs. Francisca Quebral, G.R. No. 165962, 6 July 2007

[34] Agueda de Vera-Cruz, Mario, Evangeline, Edronel, Angelito, Teodoro Jr. and Fernando, all surnamed dela Cruz vs. Sabina Miguel, G.R. No. 144103, 31 August 2005

[35] Gaudencio Labrador, represented by Lulu Labrador Uson, as Attorney-in-Fact vs. Sps. Ildefonso Perlas and Pacencia Perlas and Sps. Rogelio Pobre and Melinda Fogata Pobre, G.R. No. 173900, 8 August 2010, 627 SCRA 265.

[36] Supra.

[37] Regalado P. Samartino vs. Leonor B. Raon, Agustin G. Crisostomo, The Municipal Trial Court of Noveleta, Cavite, Hon. Manuel A. Mayo, Regional Trial Court, Branch 16, Cavite City, Hon. Rolando D. Diaz, Regional Trial Court, Branch 17, Cavite City, Sheriff Danilo G. Lapuz, Cavite City and The Hon. Court of Appeals, G.R. No. 131482, 3 July 2002, 383 SCRA 664; Strategic Alliance Development Corporation vs. Radstock Securities Limited and Philippine National Construction Corporation, G.R. No. 178158, 4 December 2009, 607 SCRA 413.

[38] Rollo, p. 111.

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