

LIGAYA ATON, JOYCE AGUILAR, RICARDO DEVERA, ALFREDO DEVERA, LAURENCIO BAYANA, PEDRO BAYANA, VENUS GALOPE, PENANCIA CHUA, RODRIGO AGUILAR, THELMA AGUILAR, HENRY AGUILAR, NOEL AGU...

Ponente: INTING, J.

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INTING, J.:

This is a petition for review of the April 21, 2009 Decision[1] of the Regional Trial Court Branch 5, Butuan City in Civil Case No. 5428 dismissing herein petitioners' appeal and affirming in toto the August 11, 2006 Judgment[2] of the Municipal Trial Court in Cities, Branch 1, Butuan City in Civil Case No. 9116 for unlawful detainer, damages and attorney's fees, decreed as follows:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the latter, their successors –in-interest and other persons acting in their behalf to vacate the portion of the subject properties and peacefully surrender possession thereof to plaintiff as well as dismantle/remove the structures found thereon.

Defendants are further ordered to pay reasonable value for the use and occupation of the subject lands in the amount of P1,000.00 a month beginning October 2002 and the subsequent months thereafter until premises are vacated; to pay attorney's fees of P30,000.00; and to pay the cost of the suit.

SO ORDERED."

The facts of the case are as follows:

Respondent Guingona Homeowners' Association is the registered owner of herein subject parcels of lot per TCT Nos. RT-33340, RT-33341, RT-33346, RT-33347, RT-33349, RT-33356, RT-33359, RT-33374, RT-33376, RT-33398, RT-33399, RT-33332 and RT-33338[3] issued by virtue of a notarized deed of absolute sale dated March 17, 1997 executed between the association president and Philippine National Bank.[4] The afore-mentioned lots were possessed and occupied by the petitioners whose stay thereon were allegedly tolerated by the respondent out of sympathy and compassion despite the fact that the former were not members of the association. The petitioners though were advised to join the association so that they can avail themselves of the lease and purchase agreement granted to association members to enable them to acquire the parcels occupied by them. To the respondent's dismay, the petitioners turned down the offer and refused not only to pay the rent but also to vacate the premises denying the respondent's ownership of the lots. This prompted the respondent to file an action before the Lupon for the petitioners to pay rent and vacate the subject lots. The conciliations were held on September 13 and 24, 2002 but to no avail which paved way for the issuance of two (2) certificates to file action. On January 27, 2003, the respondent filed an action before the Municipal Trial Court in Cities for unlawful detainer with damages and attorney's fees against the petitioners.[5]

The petitioners, on the other hand, admit that they are not members of the association but deny that their stay on the lots were by mere tolerance of the respondent. Instead they maintain that they have been in actual possession

of the lots publicly, exclusively, continuously and in the concept of an owner for 52 years already and have even filed petitions before several government agencies as claimants thereof years before the respondent came to buy the property. Further, they assail PNB's ownership of the property since they have a pending petition before the court filed on March 26, 1993[6] against the register of deeds and the bank to annul the reconstitution proceedings initiated in 1951 by the alleged former owners of the lot from whom PNB derived its title. In sum, the petitioners aver that the respondent has no cause of action against them.

The MTCC rendered a Judgment[7] in the petitioners' favor holding that the respondent's complaint failed to state a cause of action since it failed to indicate that there was a demand for the petitioners to pay and vacate the premises. On appeal, the MTCC judgment was reversed by the RTC[8] finding that there is no need for a demand to vacate because such requirement applies only when there is a lessor-lessee relationship among the parties which is absent in the present case since the petitioners are mere trespassers or squatters. Granting that a demand to vacate is necessary, the certificates to file actions sufficed as substantial compliance because during the proceedings thereon, the petitioners were already notified of the respondent's demands. Further, the RTC noted that the petitioners do not even have documents to corroborate their claims as compared to the respondent who has titles thereto which are treated as authentic unless nullified in a proper proceeding. The RTC remanded the case to the MTCC for further proceedings.

On August 11, 2006, the MTCC rendered a Judgment ruling for the respondent. The MTCC found the certificate to file actions enough to act as a demand for the petitioners to vacate the lots subject thereof including affidavits attesting that representatives of the association did demand the former to vacate; that a person occupying another's lot is bound by an implied promise to vacate it upon demand otherwise, an action for ejectment may be filed and since the petitioners' occupation was by mere tolerance, they are not entitled to the possession of the lots; that even if there is a pending case as to the ownership of the lots, it will not matter in ejectment cases which concern is not on the issue of ownership but only on the possession; and that the petitioners failed to show justification for their continued stay thereon while the respondent was able to show title to the property, thus, they should be preferred to possess the land.

The RTC affirmed the above MTCC Judgment per Decision dated April 21, 2009.

The petitioners' motion for reconsideration[9] was denied.[10] Hence, this petition for review assigning the following errors by the RTC, to wit:

I.

IN RULING THAT THE COMPLAINT IS ONE FOR UNLAWFUL DETAINER;

II.

IN RULING THAT THE COMPLAINT FOR UNLAWFUL DETAINER STATES A CAUSE OF ACTION EVEN IF THERE IS ABSOLUTELY NO ALLEGATION THEREIN THAT A PRIOR DEMAND BY RESPONDENT UPON THE PETITIONERS TO VACATE WERE MADE BEFORE IT FILED A COMPLAINT FOR CONCILIATION WITH THE OFFICE OF THE PUNONG BARANGAY;

III.

IN NOT RULING THAT THE TRANSFER CERTIFICATES OF TITLES IN THE NAME OF RESPONDENT GUINGONA HOMEOWNERS' ASSOCIATION OVER LOT 293-A ARE FAKE AND SPURIOUS, DERIVED FROM PURPORTEDLY JUDICIALLY RECONSTITUTED ON 18 MAY 1951 CFI AGUSAN ORIGINAL CERTIFICATE OF TITLE NO. 34 IN THE NAME OF ANDRES LADEMORA OVER LOT 293, IN VIRTUE OF A JUDGMENT IN A JUDICIAL RECONSTITUTION OF TITLE WHICH

APPEARS ON THE FACE THEREOF TO BE A COMPLETE NULLITY FOR LACK OF JURISDICTION WHICH IS VOID AND WHICH CAN BE ATTACKED COLLATERALLY xxx.

The petitioners maintain that the respondent's complaint shows that the case is not for unlawful detainer but rather one for quieting of title and recovery of ownership and possession; that the complaint failed not only to specify when the respondent tolerated the petitioners' stay on the lot but it also failed to state whether there was an oral or written demand for the petitioners to vacate before the complaint for conciliation with the Office of the Punong Barangay was filed and when such demand was made which are essential in unlawful detainer cases; that the certificates to file actions are not the prior demands required by law for the accrual of the cause of action for unlawful detainer; that the TCTs relied upon by the respondent for its possession and ownership are fake and spurious having been derived from illegally reconstituted titles of its previous owners.[11]

Our Ruling

The petition is partly impressed with merit.

The allegations in the complaint determine both the nature of the action and the jurisdiction of the court. The complaint must specifically allege the facts constituting unlawful detainer. In the absence of these allegations of facts, an action for unlawful detainer is not the proper remedy and the municipal trial court does not have jurisdiction over the case.[12] An action is for unlawful detainer if the complaint sufficiently alleges the following: (1) initially, the defendant has possession of property by contract with or by tolerance of the plaintiff; (2) eventually, however, such possession became illegal upon plaintiff's notice to defendant, terminating the latter's right of possession; (3) still, the defendant remains in possession, depriving the plaintiff of the enjoyment of his property; and (4) within a year from plaintiff's last demand that defendant vacate the property, the plaintiff files a complaint for defendant's ejectment. If the defendant had possession of the land upon mere tolerance of the owner, such tolerance must be present at the beginning of defendant's possession.[13]

In the case at bench, pertinent portions of the respondent's complaint states:

“xxx

3. The Plaintiff is the absolute and registered owner of the following parcels of land acquired from Philippine National Bank xxx.
4. The Defendants, non members of the association, occupied and possessed part and portion of the above parcels of land subdivided into different subdivided lots and blocks xxx.
5. Members of the association, formerly landless, moved by sympathy and compassion, tolerated the Defendants to possess and occupy the lots and blocks of the parcels of land without any lease contract and monthly rentals;
6. The Plaintiff and the members of the association exerted extra efforts to convince the Defendants to join and become members of the association and acquire their own parcel of land via lease and purchase agreement program offered and granted by the association;
7. But in manifest display of ingratitude and bad faith, the Defendants deliberately refused [to] recognize ownership of the Plaintiff of the parcel of land and initiated and pursued cases, but without any success, to question the ownership of the Plaintiff of the parcels of land;
8. Undaunted, the Plaintiff convince[d] the Defendants to become members of the association and avail the lease and purchase agreement. But the Defendants refused to become members and refused to pay rentals and to vacate and remove their improvements;

9. Thus, the Plaintiff was compelled to file complaints before the Office of the Punong Barangay to demand that the defendants pay the rentals and vacate and remove their improvements.

But Defendants refused to pay the rentals and vacate and remove their improvements. Thus, on September 13, 2002 and September 24, 2002, Certificates to File Action were issued xxx.”

The above-quoted excerpts of the respondent’s complaint clearly make out an action for unlawful detainer based on the guidelines held in several cases. First, the complaint alleged that the petitioners were in possession of the property by mere tolerance of the respondent. Second, the respondent filed complaints before the Office of the Punong Barangay demanding that the petitioners pay rent, vacate the premises and remove the improvements thereon. Lastly, the petitioners refused to heed the respondent’s demand and continued to stay on the subject lots prompting the latter to file an action for unlawful detainer before the MTCC on January 27, 2003 or within a year after the conciliation proceedings held in September of 2002. Apparently, the allegations required by law to be set forth in a complaint to constitute an action for unlawful detainer are all present in herein respondent’s complaint, thus, MTCC was right to take cognizance of the case. As ruled in the case of Santos v. Ayon,[14]

“A complaint for unlawful detainer is sufficient if it alleges that the withholding of the possession or the refusal to vacate is unlawful without necessarily employing the terminology of the law. Here, there is an allegation in petitioner’s complaint that respondents occupancy on the portion of his property is by virtue of his tolerance. Petitioner’s cause of action for unlawful detainer springs from respondents’ failure to vacate the questioned premises upon his demand sometime in 1996. Within one (1) year therefrom, or on November 6, 1996, petitioner filed the instant complaint.”

Nevertheless, to hold that the complaint adequately established a cause of action for unlawful detainer would not necessarily entail that the complainant is already entitled to such remedy and that the possessor’s ejectment is inevitable. It bears stressing that those stated in the complaint are mere allegations and still needs to be established. Bare and unsubstantiated allegations do not constitute substantial evidence and have no probative value.[15]

In Carbonilla v. Abiera, et.al,[16]the Supreme Court held that a requisite for a valid cause of action in an unlawful detainer case is that possession must be originally lawful, and such possession must have turned unlawful only upon the expiration of the right to possess. It must be shown that the possession was initially lawful; hence, the basis of such lawful possession must be established. If, the claim is that such possession is by mere tolerance of the plaintiff, the acts of tolerance must be proved.

In the case at bench, We find that the respondent fell short in proving and corroborating his allegations that the petitioners’ stay on the premises was by its tolerance from the very beginning. Ergo, its action for unlawful detainer must fail. Nothing on the records of this case would show when and how the petitioners came into possession of the subject property that would indicate the respondent’s tolerance of the former’s stay thereon. Instead, what was established was that the petitioners had been in possession of the lots even before the respondent bought them from PNB. This is evident from the petition filed by the petitioners against the bank and the register of deeds in 1993 for the annulment of the reconstitution proceedings covering the titles of the same parcels of land. In that petition, the petitioners already alleged possession of the property. This was more or less 4 years before the sale to herein petitioner in 1997 was consummated. Thus, it is imperative for the respondent to show that the petitioners’ stay on the lots were legal from the very beginning or tolerated by the previous owners thereof lest the possession be considered as unlawful. This is in line with the case of Jose v. Alfuerio, et.al.,[17] where the Supreme Court ruled that since the bare allegation of plaintiff’s tolerance of defendant’s occupation of the premises has not been proven, the possession should be deemed illegal from the beginning. In the above-mentioned case of Carbonilla, the High Court went on to hold:

“A bare allegation of tolerance will not suffice. Plaintiff must, at least, show overt acts indicative of his or his predecessor’s permission to occupy the subject property. Thus, we must agree with the CA when it said:

A careful scrutiny of the records revealed that herein respondent miserably failed to prove his claim that petitioners’ possession of the subject building was by mere tolerance as alleged in the complaint. Tolerance must be [present] right from the start of possession sought to be recovered to be within the purview of unlawful detainer. Mere tolerance always carries with it ‘permission’ and not merely silence or inaction for silence or inaction is negligence, not tolerance.”

In addition, plaintiff must also show that the supposed acts of tolerance have been present right from the very start of the possession—from entry to the property. Otherwise, if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy. Notably, no mention was made in the complaint of how entry by respondents was effected or how and when dispossession started. Neither was there any evidence showing such details.”

The importance of establishing the tolerance of possession from the time of entry to the property is likewise emphasized in the case of *Padre v. Malabanan*,^[18] where the Supreme Court upheld the CA and declared:

“To the mind of the Court, while jurisdiction indeed attaches to the MeTC to entertain the petitioners’ amended complaint, as in fact the action is one for ejectment and the allegations of tolerance are made thereunder, it is error to conclude that said court, on the basis alone that the Amended Complaint alleges tolerance, could order the respondent’s ejectment from the premises in dispute.

To stress, the respondent very much placed in issue the alleged tolerance of the petitioners, including the question of whether or not the latter were ever in possession at all of the subject premises. In the law of evidence, allegations are not proofs, more so when, as here, the other party very much denied those allegations. The fatal error committed by the MeTC and perpetuated on appeal by the RTC is that both courts mistook allegations as proofs, ignoring the fact that those allegations were all denied by the respondent.

As correctly observed by the CA, evidence is totally wanting as to when and under what circumstances was the alleged tolerance came about. In fact, judging from the records, the respondent was already on the property even before the petitioners obtained their TCT.”

In the case before Us, proof of the respondent’s tolerance on the petitioners’ stay on the subject lots is wanting. Again, there was no showing how or when the petitioners possessed the property nor was there evidence that the respondent or the previous owners tolerated the petitioners’ stay from the very beginning considering the latter’s consistent denial that their possession was by mere tolerance. Moreover, the petitioners’ claims were also bolstered by the fact that they adequately established possession even before the respondent bought the property.

Accordingly, even if the complaint on its face initially constitutes an action for unlawful detainer to sustain MTCC’s jurisdiction, the respondent, however, failed to persuade that the petitioners’ possession was lawful and tolerated from the start, an element essential in unlawful detainer cases. Thus, the ejectment cannot be sustained. Seemingly, the respondent availed of the wrong remedy.

Anent the issue of demand, however, We concur with the lower courts that the barangay proceedings already sufficed as notice or demand for the petitioners to vacate the premises, pay the rent and remove the improvements. The law did not require any particular form of demand and the fact that the parties already had conciliation proceedings show that each of them had already aired out their respective grievances and demands including their defenses and justifications for refusing to give in to each other’s requests. Moreover, the filing of unlawful detainer cases is allowed within one (1) year reckoned from the time the last demand was made. The “filing” referred to is the filing of the complaint before the court and not before the punong barangay. Demand is, therefore, required before the plaintiff may institute an action for unlawful detainer in the proper court and not

necessarily before instituting a conciliation proceeding before the barangay as what the petitioners would like to impress upon this Court. Consequently, it is of no moment if the respondent failed to make a demand for the petitioners to vacate before they were summoned in the barangay for what is essential is that notice to vacate or to pay the rent was made before the action for unlawful detainer was filed in the MTCC.

As to the issue of the respondent's title to property, it is well-settled that a certificate of title cannot be subject to a collateral attack and can be altered, modified or cancelled only in a direct proceeding in accordance with law.[19] Hence, this Court cannot pass upon the validity of the respondent's title over the property since this is not the proper proceeding to deal with the said issue. Further, the only matter for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the party litigants.[20] Even a pending civil action involving ownership of the same property does not justify the suspension of the ejectment proceedings.[21] Perforce, without any order annulling the respondent's titles on the subject lots, their validity is upheld.

All told, although there was proper demand for the petitioners to vacate and the respondent's title to the property stands, this Court cannot sanction the petitioners' ejectment for unlawful detainer as the respondent failed to establish the important factor of tolerance from the moment the petitioners commenced their stay on the subject lots. Certainly, the registered owner of real property is entitled to its possession. However, the owner cannot simply wrest possession thereof from whoever is in actual occupation of the property. To recover possession, he must resort to the proper judicial remedy and, once he chooses what action to file, he is required to satisfy the conditions necessary for such action to prosper.[22] As much as We would want to put finis to the case at bench, it has been resolved that an action for ejectment cannot be treated as an accion publiciana or accion reivindicatoria and their differences go way more than mere technicalities.[23]

WHEREFORE, the instant petition is GRANTED. The April 21, 2009 Decision of the Regional Trial Court Branch 5, Butuan City in Civil Case No. 5428 is hereby REVERSED and SET ASIDE. The respondent's action for unlawful detainer against the petitioners is DISMISSED.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

[1] Rollo, pp. 45-58.

[2] Rollo, pp. 137-139.

[3] Rollo, pp. 114-126.

[4] Rollo, pp. 111-113.

[5] Rollo, pp. 74-78.

[6] Rollo, pp. 88-90.

[7] Rollo, pp. 95-98.

[8] Rollo, pp. 127-135.

[9] Rollo, pp. 59-63.

[10] Rollo, pp. 66-73.

- [11] Rollo, pp. 6-39.
- [12] Jose v. Alfuerio, et.al., G.R. No. 169380, November 26, 2012.
- [13] Dionisio v. Linsangan, G.R. No. 178159, March 2, 2011.
- [14] G.R. No. 137013, May 6, 2005.
- [15] LNS International Manpower Services v. Padua, JR., G.R. No. 179792, March 5, 2010.
- [16] G.R. No. 177637, July 26, 2010.
- [17] Supra.
- [18] G.R. No. 165620, September 8, 2006.
- [19] Co v. Militar, G.R. No. 149912, January 29, 2004.
- [20] Ibid.
- [21] Barnachea v. CA, G.R. No. 150025, July 23, 2008.
- [22] Corpuz v. Agustin, G.R. No. 183822, January 18, 2012.
- [23] Jose v. Alfuerio, et.al., G.R. No. 169380, November 26, 2012.

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