

SPOUSES ADEMAR OBINA AND LEOLINDA OBINA PETITIONERS, VS. ALFREDO PULIDO, RESPONDENT.

Ponente: CONTRERAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3d9f85c31e57/>

CONTRERAS, J.:

The Case

This is a petition for review assailing the Decision[1] of the Regional Trial Court (hereafter RTC) in Dipolog City, which affirmed the Decision[2] of the Municipal Trial Court in Cities (hereafter MTCC) dismissing the complaint for forcible entry filed by the Spouses Ademar and Leolinda Obina (Hereafter spouses Obina) against Alfredo Pulido (hereafter Pulido).

A Motion for Reconsideration was likewise denied.

The Facts

The records reveal the following facts:

On May 31, 2010, spouses Obina filed a complaint in the Municipal Trial Court in Cities, Branch 2, Dipolog City, for Forcible Entry and Damages against Pulido, alleging that he stealthily entered their property sometime in June 2009.[3]

In their Complaint,[4] spouses Obina's version of the events is as follows:

Spouses Obina are claiming to be the owners of a parcel of land in Dipolog City. They allegedly purchased the land from Victoriano M. Regencia in 1984, who acquired the lot from Fortunato Marquiala in June 1964. Immediately after buying the said lot, spouses Obina constructed and constituted their family home on it. In 2007, the city government of Dipolog ordered the spouses Obina to leave the area to give way for the construction of the road connecting Barangay Turno-Estaka and Barangay Miputak. With the other residents in the area, they were relocated to Olingan, Dipolog City, while road construction was undertaken. Upon completion, the road sliced a portion of their lot. On the last week of May 2009, spouses Obina learned that the road construction was finished. So they went back to their lot, bringing some lumber to rebuild their house. When spouses Obina returned to the area sometime in the first week of June, they saw a skeletal structure already being erected by Pulido. Spouses Obina then complained to the barangay authorities to no avail. They also sent to Pulido a demand letter to vacate which was also left unheeded.[5]

For his part, Pulido claimed he bought portions of lot 3150 from Fortunato Marquiala in August 1964 and January 1965.[6] Pulido also asserted that the property allegedly claimed by the spouses Obina is beyond or outside the perimeter area of Pulido's property, as shown by the sketch plan at the back portion of the Affidavit of Quitclaim that Pulido got from Fortunato Marquilla. Pulido maintained that the lot claimed by the spouses Obina is actually located farther to the western portion as found in the sketch plan, which was totally overrun by the recently created bypass road.[7]

For his defense, Pulido countered that in the first place, the allegation of prior physical possession cannot be determined since the spouses Obina were unable to categorically identify or specify with exactitude their three hundred (300) square meters as a part of lot 3150. They cannot just claim to be of prior physical possession of the property belonging to Pulido, which was specifically identified in the sketch plan attached to the affidavit of quitclaim that Pulido has from Fortunato Marquilla. Also, it was not through Pulido's acts that spouses Obina were allegedly dispossessed of the property in question since it was their voluntary compliance with the relocation order of the city government that made them leave the area. Thus, it was actually the city government which caused the spouses Obina to lose possession of their alleged property. Secondly, there was no force, intimidation, threat, strategy or stealth when the alleged deprivation of possession was made since Pulido was actually in America when the Geodetic Engineer, upon his request, relocated the markers of his property after a portion of it had been encroached by the constructed bypass road. Lastly, the action, if there is merit to it, had been filed out of time. The road construction was actually started by the city government of Dipolog in the second quarter of 2006, not 2007 as claimed by the spouses Obina. The complaint was filed on May 28, 2010. Clearly, it was more than a year from the alleged dispossession of the property. Thus, Pulido argued that the action must be dismissed.[8]

On May 30, 2012, the MTCC issued a decision dismissing the complaint. The MTCC found that "no forcible entry was committed and instead, there was abundant proof of Pulido's ownership and prior possession of the lot in question." [9] The MTCC also declared that the spouses Obina assumed that the lot belonging to Pulido was the remainder of their lot, but their bare allegations were not backed by any documentary evidence. On a last note, the MTCC ruled that from the mass of evidence presented, the court is more than persuaded that Pulido is the absolute owner of the land in question.[10]

The dispositive portion states:

"WHEREFORE, in view of all foregoing the Court hereby renders judgment as follows:

- a) Ordering the dismissal of the complaint;
 - b) Declaring defendant Alfredo Pulido as lawful owner and possessor of the land in question;
- Ordering the dismissal of the defendant's counterclaim."

On September 28, 2012, the RTC issued the herein assailed decision affirming the MTCC. The RTC ruled that spouses Obina failed to prove prior physical possession over the subject property, which is a fundamental issue in actions of forcible entry.

Spouses Obina asserted that the RTC failed to consider the entire evidence on record, as to the nature and cause of why they left their land.[11]

A Motion for Reconsideration was likewise denied.[12]

The Issues

Spouses Obina averred that the RTC seriously erred:

when it ruled that they were no longer in possession of the property after leaving for resettlement in Barangay Olingan, Dipolog;

in ruling that spouses Obina failed to prove the identity of the property;

in not ruling that spouses Obina enjoyed prior physical possession of the lot subject of this case;

in not ejecting Pulido from the property. Our Ruling

The petition is devoid of merit.

As provided in Rule 70, Section 1[13] of the Rules of Court, forcible entry is defined as “an action to recover possession founded on illegal occupation from the beginning”[14] and “where one is deprived of physical possession of any land or building by means of force, intimidation, threat, strategy or stealth.”[15] There is no evidence presented that would support the claim of spouses Obina as to the identity of the subject lot, more so that they have prior physical possession thereof, and that Pulido surreptitiously entered their property. On the contrary, the evidence presented supports the defense of Pulido that the property in question had been transmitted to him and had been in his possession, even during the period when the road construction was underway.

On the Alleged Prior Possession by spouses Obina

A condition sine qua non to a claim for forcible entry is for plaintiffs (spouses Obina) to prove prior physical possession of the subject property. The RTC correctly ruled that a plaintiff in an action for forcible entry must first prove that “he was in prior physical possession of the disputed property and that the defendant deprived him of his possession by any of the means provided for”[16] by law.

The kind of possession required by law and jurisprudence is physical and not ideal possession. “As used in forcible entry and unlawful detainer cases, ‘possession’ refers to “physical possession, not legal possession in the sense contemplated in civil law.”[17]

The eminent civilist Arturo M. Tolentino stated that “to possess means to have, to actually and physically occupy a thing, with or without right. XXX Possession always includes the idea of occupation XXX. Without occupancy, there is no possession.”[18] Thus, spouses Obina can no longer invoke forcible entry upon returning to the place and claim to be in ideal possession for the last three (3) years, more or less, when they were not physically present on the subject lot.

Another civilist, Edgardo L. Paras, outlined the elements of possession as follows: “(a) there must be holding or control (occupancy, taking or apprehension) of a thing or a right. (b) there must be deliberate intention to possess. (c) the possession must be by virtue of one’s own right.”[19] When the spouses Obina left for the relocation site, they were no longer occupying the subject lot through they may have the intent to continue possessing the same. At that point, they are actually and physically dispossessed of the property. Therefore, assuming for the sake of argument that they own the subject lot, still they cannot be in prior physical possession thereof when the alleged structures were built.

Compliance with the Requisites of Forcible Entry

“In actions for forcible entry, three (3) requisites have to be met for the municipal trial court to acquire jurisdiction. First, the plaintiffs must allege their prior physical possession of the property. Second, they must also assert that they were deprived of possession either by force, intimidation, threat, strategy or stealth. Third, the action must be filed within one (1) year from the time the owners or legal possessors learned of their deprivation of physical possession of the land or building”[20] “except that when entry was made through stealth, the one year period is counted from the time the plaintiff learned thereof.”[21]

Spouses Obina miserably failed to comply with the foregoing requisites.

Spouses Obina posit that their relocation ordered by the city government of Dipolog was a compelling act of a lawful authority and must therefore be followed. They claim that there was never any abandonment on their part since they would not have vacated the land if the government did not compel them to relocate. Therefore, they concluded that relocation of residence alone is not conclusive that one abandoned a property, hence lost actual possession thereof. Spouses Obina further contended that the skeletal structure made by Pulido on their property was done through stealth, clandestine and strategy without their knowledge and consent. They claim there was

stealth since Pulido took advantage of their momentary absence to build the structure on their lot.

Their contentions fail to convince.

As a prerequisite for filing a forcible entry case, it was imperative for spouses Obina to determine and identify with particularity exactly what part of the whole lot 3150 they claim to have possessed prior to the occupation of Pulido. Upon failure to prove the identity of their alleged property, with more reason they cannot claim that Pulido surreptitiously entered the subject lot.

While spouses Obina put forward their self-serving allegations that the subject lot used to be the location of their house, they failed to provide any reliable evidence for their claim. It may be true that they purchased a portion of the subject lot from Victoriano Regencia but their proof of conveyance contains no delineation as to the specific aliquot portion to which their rights are attached. There were no boundaries indicated, no exact technical description and no sketch plan of any survey conducted on their supposed lot.

As opposed to the Affidavit of Quitclaim in favor of Pulido, with an attached sketch plan of the particular lot to which the quitclaim pertains, affirmed by the findings of the court commissioned Geodetic Engineer who presented a survey and sketch plan that the disputed lot is part of Pulido's property, the claims of the spouses Obina fall short. Pulido also presented tax declarations in his name with regard to the property in question.

In sum, "prior physical possession is the primary consideration in a forcible entry case. A party who can prove prior possession can recover such possession even against the owner himself." [22] Failing in this regard, the claim of spouses Obina must necessarily fail.

WHEREFORE, premises considered, the Petition is DENIED. The Decision of the Regional Trial Court, Branch 2, Dipolog City dated September 12, 2012 is hereby AFFIRMED.

SO ORDERED.

Lloren, J., Ch., and Santos, JJ., concur.

[1] Rollo, pages 132-138. Decision issued on September 28, 2012 by the RTC Branch 8 of Dipolog City.

[2] Rollo, pages 120-131. Decision rendered on May 20, 2012 by the MTCC Branch 2 of Dipolog City.

[3] Rollo, page 11. Civil Case Number 4262.

[4] Rollo, pages 25-27.

[5] Rollo, pages 12-13.

[6] Rollo page 13.

[7] Rollo, pages 44-45.

[8] Rollo, pages 96-115.

[9] Rollo, page 128.

[10] Rollo, pages 130-131.

[11] Rollo, page 15.

[12] Rollo, pages 144-145.

[13] Rule 70, the 1997 Rules of Civil Procedure, 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 XXX 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 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.

[14] Ferria- Noche, Civil Procedure Annotated, Volume 2, 2001 Edition, page 610.

[15] De la Cruz vs. Court of Appeals G.R. No. 139442, December 6, 2006.

[16] Philippine Tourism Authority vs. Herzenstiel, G.R. No. 196741, July 17, 2013.

[17] De Grano vs. Lacaba, G.R. No 158877, June 16, 2009 as cited in Villondo vs. Quijano, G.R. No. 173606, December 3, 2012.

[18] Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, 1992 Edition, page 238.

[19] Paras, Civil Code of the Philippines Annotated, 2002 Edition, page 446.

[20] De la Cruz vs. Court of Appeals G.R. No. 139442, December 6, 2006.

[21] Elane vs. Court of Appeals, G.R. No.80638 April 26, 1989 as cited in Spouses Ong vs. Parel, G.R. 143173 March 28, 2001.

[22] Pajuyo vs. Court of Appeals, 430 SCRA 492, June 3, 2004

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.