

BIENVENIDO VILLAJOS, PETITIONER, VS. SPOUSES EDWIN MABITAZAN AND MARIDEN MABITAZAN, RESPONDENTS.

Ponente: ZALAMEDA, R.V., J.

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ZALAMEDA, R.V., J.:

This is a Petition for Review[1] under Rule 42 of the Rules of Court,[2] seeking to set aside and/or nullify the Decision[3] dated 21 May 2013 in the exercise of its appellate jurisdiction rendered by Branch 4, Regional Trial Court of Mariveles, Bataan,[4] over a case for forcible entry in Civil Case No. 948-ML, entitled "Spouses Edwin Mabitazan and Mariden Mabitazan, Plaintiff-Appellee, versus Bienvenido Villajos, Defendant-Appellant." [5]

The antecedent facts are as follows:

On 08 November 2010, respondent-spouses Edwin Mabitazan and Mariden Mabitazan[6] filed before the Municipal Trial Court of Mariveles Bataan,[7] a Complaint for Forcible Entry[8] docketed as Civil Case No. 10-1041 against petitioner Bienvenido T. Villajos[9] over two (2) parcels of land situated at Mariveles, Bataan, described as Lots 568 and 570 and covered by Transfer Certificate of Title Nos. T-151166[10] and T-151167,[11] respectively, which they have been in possession since 1995, after having purchased the same from the Maybank Philippines, Inc.[12] It was likewise alleged that petitioner took possession of a portion of Lot 570 sometime in May 2010 by means of strategy and stealth, by erecting a house thereon, while they were at their Quezon City residence. After learning of the unlawful entry, they reported the matter to the barangay but efforts to recover the property proved futile.

In his Answer with Counterclaim,[13] petitioner denied all the allegations in the Complaint and by way of affirmative defenses claimed that respondents are not the owners of the subject lots, as the ownership thereof was retained by the bank; there being no sale on the subject property but a mere promise to sell.[14] Also, respondents were allowed to take possession of the property only after the execution of the Deed of Promise to Sell in November 2007,[15] while petitioner was already in prior possession thereof, "residing in a house near the boundary of the subject matter of the complaint since 1995 xxx." [16] Thus, according to petitioner, the MTC was without jurisdiction over the subject matter of the Complaint, as the unlawful deprivation of possession had already exceeded one (1) year.

The MTC thereafter rendered its Judgment[17] on 18 January 2011, the dispositive portion of which reads:

"X x x

WHEREFORE, based on the foregoing disquisition, judgment is hereby rendered in favor of the respondents, Sps. Edwin and Mariden Mabitazan and against defendant Bienvenido T. Villajos and all persons claiming rights under him, his representatives, members of the families, his relatives by affinity or consanguinity, or other people whose occupation of the subject house are from the authority and permission of the defendant or whoever may be found in possession of the subject house upon enforcement of this judgment as the case maybe:

- to vacate Lot 570 covered by TCT-151167 situated at Mariveles, Bataan and restore possession of the entire

property to the plaintiffs;

- to remove or demolish at defendants own expense the subject house standing within the property of the plaintiff which is Lot 570 and covered by TCT No. 151167 and restore possession thereof to the plaintiff without causing any unnecessary damage to the said property of the plaintiffs;

- to pay the plaintiff the following amount:

- P15,000.00 as attorney's fee;

- P500.00 per month as fair rental value from the date of filing of this case, until he completely vacate and demolish or remove the subject house standing on the property of the plaintiffs;

- to pay the amount of P2,225.00 as the cost of suit; and

All the counterclaims of the defendant are hereby ordered dismiss for lack of factual basis.

SO ORDERED.

X x x"[18]

Aggrieved, petitioner appealed[19] the Judgment to the court a quo but which the latter affirmed in its Decision dated 21 May 2013, the dispositive portion of which reads , thus:

"X x x

WHEREFORE, premises considered, the appealed Judgment of the Municipal Trial Court, Mariveles, Bataan dated January 18, 2012 is hereby affirmed in its entirety.

SO ORDERED.

X x x"[20]

Petitioner thereafter filed the instant Petition[21] raising the lone issue for Our consideration –

WHETHER THE REGIONAL TRIAL COURT GRAVELY ERRED IN AFFIRMING THE LOWER COURT'S DECISION DESPITE ITS LACK OF SUFFICIENT FACTUAL AND LEGAL BASIS WHEN IT ENTIRELY DISREGARDED THE PIECES OF EVIDENCE PRESENTED BY THE PETITIONER TO DISPROVE RESPONDENTS' CLAIM OF POSSESSION OVER THE SUBJECT PROPERTY.[22]

The Petition is bereft of merit.

It is the petitioner's position that the MTC had no jurisdiction over the subject matter of the case, the complaint for forcible entry having been filed more than one (1) year from the time of dispossession; petitioner claiming that he was in possession of the land since 1995 while respondents were allowed to take possession of the property only in November 2007.

The jurisdiction of a court is determined by the allegations of the complaint, and the rule is no different in actions for ejectment.[23] In ascertaining whether or not the action is one for forcible entry falling within the exclusive jurisdiction of the inferior courts, the averments of the complaint and the character of the relief sought are to be examined.

Also, for a forcible entry suit to prosper, the following elements must concur: (a) the plaintiffs must allege their prior physical possession of the property; (b) they must assert that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and, (c) the action must be filed within one (1) year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.[24]

The Complaint alleged these material facts:

"X x x

3. That herein plaintiffs bought parcels of lands known as Lots 570 covered by TCT no. T-151167 containing an area of 14,482 sq. meters more or less, and 568 covered by TCT no. T-151166 containing an area of 36,648 sq. meters more or less situated at Mariveles, Bataan, attached herewith is a photocopy of the Deed of Sale marked as Annex "A";

4. That herein plaintiffs have been in prior possession of said properties since they bought the same from Republic Planters Bank;

5. That sometime on May 2010 herein defendant by means of strategy or stealth took possession of a portion of lot 570 and erected a house thereon without the consent of herein plaintiffs who are residing at Novaliches, Quezon City;

6. That upon learning of the said forcible entry herein plaintiffs reported the matter to the barangay officials of Mariveles, Bataan but all efforts to recover said property proved futile;

X x x"[25]

Two allegations are indispensable in actions for forcible entry to enable first level courts to acquire jurisdiction over them: first, that the plaintiff had prior physical possession of the property; and, second, that the defendant deprived him of such possession by means of force, intimidation, threats, strategy, or stealth.[26] A reading of the subject Complaint showed that it recited facts essential for a forcible entry suit falling within the jurisdiction of the MTC. Further, the Complaint was filed on 08 November 2010, well within the one (1) year reglementary period from the time of the alleged dispossession on May 2010.

Petitioner likewise contends that respondents failed to establish the identity of the land being occupied by the petitioner. Allegedly, his house is outside the perimeter of the lots covered by TCT Nos. T-151166 and T-151167; further, lifting a part of the judgment of the MTC in seeking for the dismissal of the Complaint, to wit:

"X x x

X x x Plaintiffs failed to present sufficient evidence to show that the land occupied by the house of the defendant is part of his lot. There's no sketch plan or survey plan prepared by an expert surveyor or geodetic engineer that will buttress the plaintiff's claim. X x x

X x x"[27]

There is no doubt on the location of the house occupied by the petitioner; it is outside the property of respondents. Even the MTC was clear on this, thus –

"X x x

ISSUE 1 : Who was in possession of the property prior to the filing of the case?

At the outset, it must be pointed out that the defendant has consistently denied that he is the occupant or possessor of the house subject matter of the case. In fact, he insists that his house is located outside the property of the plaintiffs. This judicial admission made by defendant estops him from questioning the property rights of possession of the plaintiffs. [Emphasis supplied]

Hence, on this score alone, there is no contest as to who was in prior possession of the property. Clearly, this issue must be resolved in favor of the plaintiffs.

ISSUE 2 : Whether or not defendant has encroached the plaintiffs' property.

Anent the second issue, this Court finds that there's no encroachment. The property of the plaintiffs does not include the land where the house being occupied now by the defendant is situated. Plaintiffs failed to present sufficient evidence to show that the land occupied by the house of the defendant is part of his lot. There's no sketch plan or survey plan prepared by an expert surveyor or geodetic engineer that will buttress the plaintiffs' claim. Plaintiffs has the burden to prove that the house being occupied now by the defendant is standing within his property. Plaintiffs failed on this task. [Emphasis supplied]

In stark contrast thereto, the defendant established the fact that the subject house which is situated inside the property of the plaintiff is now being occupied by Sherilyn Morales, together with his brother Sherwin Morales and his wife Joan Morales. The report of Amado Dimafiles, Barangay Chairman of Brgy. Camaya, Mariveles, Bataan where the property of the plaintiffs is located and pursuant to this Court order affirmed this fact. This Court gives full credence to the said report considering that the ocular inspection was conducted in the presence of the plaintiffs and further attested to by three Barangay Kagawads, two barangay tanods and by the barangay secretary. As barangay officials, they enjoy the presumption of regularity in the performance of their functions. [Emphasis supplied]

X x x"

As discussed by the MTC, the subject of the ejectment case is not the house of petitioner situated outside but the house within the subject property now occupied by Sherilyn Morales, together with his brother and his wife Joan Morales, all relatives of petitioner.[28] Clearly, the house which is the subject matter of the complaint for ejectment is not in dispute.

Surprisingly, it was only during the mediation conference at the Philippine Mediation Center when petitioner raised this theory; that it is not him but Sherwin Morales with Sherilyn and Joan Morales who are presently occupying the house on respondents' property. The fact that the Morales siblings are the occupants of the house was never raised during the barangay conciliation proceedings before the Lupong Tagapamayapa of Barangay Camaya of Mariveles, Bataan[29] and even in petitioner's Answer with Counterclaim filed in the MTC. And this claim that the real party in interest was not impleaded as defendants in the subject Complaint appears to be an afterthought or a ploy to evade eviction.

We agree with the court a quo in sustaining the findings of the MTC on this point, thus –

"X x x

The court a quo (MTC) did not commit any error in ruling that the Written Certification issued by Barangay Captain Amado G. Dimafiles of Brgy. Camaya, Mariveles, Bataan is an eloquent proof that the house subject matter of the case is standing within the property of the plaintiff-appellee.

Aforesaid Certification of Barangay Captain Dimafiles as attested to by the other barangay officials of Brgy. Camaya, Mariveles, Bataan after conducting an ocular inspection establishes the fact that the house subject matter of this case is within the property of plaintiff-appellee.

The corollary issue raised by the defendant-appellant that the occupants of the aforesaid house are siblings Sherilyn and Sherwin Morales were not impleaded as party defendants in this case is also not meritorious.

As correctly found out by the court a quo, defendant-appellant never alleges (sic) in his Answer that siblings Sherilyn and Sherwin Morales were the ones occupying the subject house. That the defendant's Answer only established that he was already residing not within the property of the plaintiffs. That defendant-appellant never denied that the present possessor of the subject house are his own relatives leading to a logical conclusion that the stay of siblings Morales in the subject house had the blessings and approval of the defendant-appellant. That if the defendant-appellant has no right to stay or occupy that the subject house, with more reason that Morales siblings have also no right to stay in the premises.

X x x"[30]

Further, on the question that the Morales siblings, the present occupants of the house on the subject lot, were not impleaded as defendants in the case, respondents' Complaint is explicit in its prayer, thus:

"X x x

- Ordering the defendant and all persons claiming right under him to vacate Lot 57 covered by TCT no T-151167 situated at Mariveles, Bataan;

- Ordering the defendant and all persons claiming rights under him to remove his house thereon;

X x x"[31] [Emphasis supplied]

While the Morales siblings were not impleaded, they are nonetheless bound by the judgment for being the relatives of the petitioner or at the very least claiming rights under him. As the court a quo correctly held –

"X x x

In denying the claim of the defendant-appellant that the Morales siblings were not impleaded as party defendant in this case, this Court also finds correct the ruling of the court a quo (MTC) by citing the case of Salandanan vs. Sps Mendez. In addition, this Court further cites the case of Rudy Lao vs. Jaime Lao, where the Supreme Court ruled that:

‘A judgment in an ejectment suit is binding not only upon the defendants in the suit but also against those not made parties thereto, if they are: (a) trespassers, squatters or agents of the defendant fraudulently occupying the property to frustrate the judgment; (b) guests or other occupants of the premises with the permission of the defendant; (c) transferees pendente lite; (d) sublessee; (e) co-lessees; or (f) members of the family, relatives and other privies of the defendant.

As admitted by the defendant-appellant that the present possessor of the subject house, the Morales siblings are his relatives, the foregoing ruling applies to the defendant-appellant.

X x x"[32]

All told, We find no error committed by the court a quo in issuing the assailed decision on appeal, the same being based on the facts and prevailing jurisprudence on the matter.

WHEREFORE, the instant Petition for Review is hereby DENIED and the Decision dated 21 May 2013 rendered by Branch 4, Regional Trial Court of Mariveles, Bataan is AFFIRMED IN TOTO.

SO ORDERED.

Bato, Jr., (Chairperson), and Sempio Diy, JJ., concur.

[1] Rollo, pages 08 to 21.

[2] "Rules," for brevity.

[3] Rollo, pages 106 to 109; penned by Presiding Judge Emmanuel A. Silva.

[4] "Court a quo," for brevity.

[5] Docketed as Civil Case No. 948-ML in the court a quo.

[6] "Respondents," for brevity.

- [7] "MTC", for brevity.
- [8] Rollo, pages 22 to 25.
- [9] "Petitioner," for brevity.
- [10] Rollo, page 64.
- [11] Id. at 63.
- [12] "Bank," for brevity (formerly Republic Planters Bank).
- [13] Id. at 30 to 33.
- [14] Id. at 30; Answer with Counterclaim, par. 6, page 01.
- [15] Id. at 31.
- [16] Id.
- [17] Id. at 75 to 84; penned by Presiding Judge Damaso P. Asuncion, Jr.
- [18] Id. at 83 to 84.
- [19] Id. at 85. See Notice of Appeal dated 02 March 2012.
- [20] Id. at 109.
- [21] Id. at 08 to 21.
- [22] Id. at 12.
- [23] Lavibo, et al. vs. Court of Appeals, et al, G.R. No. 123462, 10 April 1997.
- [24] Hubert Nuñez vs. Slteas Phoenix Solutions, Inc., G.R. No. 180542, 12 April 2010.
- [25] Rollo, pages 22 to 23.
- [26] Section 1, Rule 70 of the Rules of Court; Sales, et al. vs. Barro, G.R. No. 171678, 10 December 2008.
- [27] Rollo, page 80; See Issue 2, par. 01, Judgment dated 18 January 2011, page 06.
- [28] Id. at 23, par. 5 of the Complaint, page 02.
- [29] Id. at 69.
- [30] Id. at 108 to 109.
- [31] Id. at 23 to 24; Complaint, pages 02 to 03.
- [32] Id. at 109.

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