

**SPOUSES JUAN BORBE, SR. AND LUCY BORBE, JUAN BORBE, JR.,
JOSEPH RONDINA, NOEMI ARANAR AND RAUL BUENAOBRA,
PETITIONERS, V. METEOR COMPANY, INC., RESPONDENT.**

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Addressed here is a Petition for Review[1] filed under Rule 42 of the Rules of Court. The Petition assails the Decision[2] dated January 18, 2001 of the Regional Trial (“RTC” for brevity) of Antipolo City, Branch 74, in Civil Case No. 98-4941, which affirmed the Decision[3] dated May 22, 1998 of the Municipal Trial Court (“MTC” for brevity) of Antipolo City[4], Branch 1 in Civil Case No. 3372 for “FORCIBLE ENTRY”[5]. The Petition also questions the RTC’s Order[6] dated July 13, 2012, which denied petitioners’ eventual Motion for Reconsideration[7].

The salient facts are those as stated in the MTC’s Decision[8] dated May 22, 1998, to wit:

“From the evidence presented, it appears that plaintiff (respondent here) is the registered owner of a parcel of land situated at College, View Park Subdivision, Cupang Antipolo, Rizal – covered by TCT Nos. 302320 and 302322 (Annexes 'A' and 'B' respectively) of the Registry of Deeds for Marikina Branch, Metro Manila, and it (respondent) has been in prior lawful and peaceful possession of the said property as owner; that on or about March 1996, defendants Sps. Juan Borbe Sr. and Lucy Borbe, Juan Borbe Jr., Joseph Rondina, Noemi Aranar (petitioners here) by means of strategy, stealth, and taking advantage of the plaintiff (respondent), unlawfully entered another portion of Block 5, Lot 7 of the said subdivision and there and then constructed dwelling structure thereon without the consent and permission of the plaintiff-owner (respondent); while defendant Raul Buenaobra (petitioner) unlawfully entered Block 4, Lot 28 of the aforesaid subdivision and also constructed dwelling structures thereon without the consent and permission of the plaintiff (respondent); that demand to vacate was made by the plaintiff (respondent) against the defendants (petitioners) on April 21, 1997 (Annex 'C') which was received by the latter on May 14, 1997 but still defendants (petitioners) refused to vacate the subject property; xxx”[9] (Emphasis Supplied)

On October 15, 1997[10], respondent Meteor Company, Inc. (“respondent” for brevity) filed before the MTC a Complaint[11] for “FORCIBLE ENTRY” against petitioners Spouses Juan Borbe, Sr. and Lucy Borbe, Juan Borbe, Jr., Joseph Rondina, Noemi Aranar, and Raul Buenaobra (“petitioners” for brevity). Respondent claimed that petitioners unlawfully entered portions of Block 5, Lot 7 and Block 4, Lot 28 of College, View Park Subdivision in Cupang, Antipolo, Rizal (“subject properties” for brevity) without respondent’s consent and permission.[12]

The rest of the facts are continued in the MTC’s Decision[13] dated May 22, 1998, as follows:

“Defendants (petitioners) on the other hand deny that they (petitioners) entered the subject land by force and intimidation since they (petitioners) were already on the subject land in 1972 pursuant to a Presidential Decree allowing occupation of vacant lands for purposes of cultivation in which case they (petitioners) could not be deemed as having entered the land only in 1995 as falsely claimed by the plaintiff (respondent); that

defendants (petitioners) acquired titles only in February, 1996 as shown by the pictures marked as Exhibits '1', '1-a', '1-b', '1-c', '2', '2-a', '2-b', '2-c', '3', '3-a', '3-b', and '3-c'; that defendants (petitioners) filed a case of cancellation of title under Civil Case No. 984799 before the RTC (Exhibit 'C'), so that the instant case should be dismissed for lack of jurisdiction; they further alleged that the cause of action of this case is filed beyond the one (1) year period; and that there is a pending case for annulment of title before the Regional Trial Court and therefore this court has no jurisdiction over the case.”[14] (Emphasis Supplied)

On May 22, 1998, the MTC rendered a Decision[15] ordering petitioners and “all persons claiming privity” with them to vacate, and to surrender the possession of the subject properties to respondent, and ordering petitioners to pay to respondent reasonable compensation for the use and occupation of the subject properties.[16] The dispositive portion of the MTC's Decision[17] read:

“Wherefore, in view of the foregoing considerations, judgment is hereby rendered:

1)

ordering the defendants Juan Borbe, Sr. and Lucy Borbe and all persons claiming rights under them to vacate lots 1 and 7 of Block 5, College View Park Subdivision, Cupang, Antipolo, Rizal covered by TCT No. 302320 and TCT No. 302322 of the Registry of Deeds of Marikina, Metro Manila;

2)

ordering defendant Juan Borbe, Jr. and all persons claiming rights under him to vacate a portion of Lot 7, Block 5, covered by TCT No. 302322;

3)

ordering defendants Joseph Rondina and Noemi Aranar and all persons claiming privity with them to vacate the portion of Lot 7, Block 5, covered by TCT No. 302320 and restore possession thereof to the plaintiff;

4)

ordering defendant Raul Buenaobra and all persons claiming privity with him to vacate Lot 28, Block 4 of College View Park Subdivision, Cupang, Antipolo, Rizal covered by TCT No. 302319 of the Registry of Deeds of Marikina, Metro Manila and restore possession thereof to the plaintiff;

5)

ordering defendants to pay the amount of P500.00 a month as the reasonable compensation for the use and occupation of the premises from date of demand, April 1997 until they vacate the subject premises;

6)

ordering defendants to pay the amount of P5,000.00 as attorney's fees plus the costs of suit.

SO ORDERED.”[18] (Emphasis and italics were made in the original)

Petitioners appealed[19] from the MTC's Decision[20] to the RTC. On January 18, 2001, the RTC rendered the

Decision[21] now appealed from, affirming in toto the MTC's Decision[22] of May 22, 1998.

After petitioners' Motion for Reconsideration[23] was denied by the RTC in its assailed Order[24] dated July 13, 2012, petitioners filed the Petition for Review[25] at bench, praying for the following:

“WHEREFORE, it is respectfully prayed of the Honorable Court that the petition be granted.

Before anything else, it is respectfully prayed that a Temporary Restraining Order (TRO) and Preliminary Injunction (PI) be issued pending this petition.

Other reliefs just and equitable under the circumstances are also prayed for.”[26] (Emphasis was made in the original)

Petitioners raised the following assignment of errors:

“With due respect, the petitioners cite the following as errors to be reviewed:

- The affirmation by the RTC of Antipolo of the decision despite the clear fact that the cause of action for forcible entry already elapsed for more than one year and the clear error of the MTC of Antipolo of reckoning the one-year period from the date of demand;
- The affirmation by the RTC of Antipolo of the decision of the MTC despite the absence of the proof of PRIOR PHYSICAL POSSESSION;
- The affirmation by the RTC of Antipolo of the decision of the MTC despite the lack of the board resolution authorizing Sandra Rovero Cox to file the case;
- The affirmation by the RTC of Antipolo of the MTC decision of not awarding the counterclaims of the petitioners despite the clear lack of cause of action.”[27]

As properly argued by petitioners in their assigned error 1., respondent's Complaint[28] for “FORCIBLE ENTRY” was filed beyond the one (1) year prescriptive period provided under Section 1, Rule 70[29] of the Rules of Court.

The MTC, the findings of which were adopted by the RTC, ruled as follows:

“xxx demand to vacate was made on April 21, 1997 and the filing of the case on October [15][30], 1997 is within the one year period from notice of demand to vacate when plaintiff learned of such dispossession.

It has been held that the one year period within which to file an action for forcible entry and detainer is reckoned not from the moment of occupancy by the defendant but from the time that his possession becomes unlawful. (Mabalot vs. Madela, 121 SCRA 347).”[31]

Contrary to the conclusions of the MTC however, is that the one (1) year prescriptive period for the filing of respondent's Complaint[32] for “FORCIBLE ENTRY” started to run not on the date of respondent's demand for petitioners to vacate the subject properties on April 21, 1997[33], but upon respondent's discovery on February 1996 of petitioners' illegal entry into the subject properties by “stealth” and “strategy”[34].

That the one (1) year prescriptive period for the filing of a complaint for Forcible Entry which is based on allegations of “stealth” and “strategy” is counted from the time of discovery by the plaintiff, such as respondent here, of the illegal entry by the defendant, such as petitioners here, is in accordance with the following pronouncement of the Supreme Court in *Philippine Overseas Telecommunications Corporation vs. Enrique Gutierrez, et al.*, G.R. No. 149764, November 22, 2006:

“Considering that the allegations of the Complaint for Forcible Entry include stealth, strategy, and lack of

knowledge of respondents' intrusion, the one-year period should be counted from the time of discovery by the petitioner of respondents' possession of the property and not from the time of occupation. xxx Petitioner filed its Complaint on May 26, 1994, well within the one-year period reckoned from August 5, 1993, the date the petitioner discovered respondents' encroachment on the property." (Emphasis Supplied)

Here, petitioners' illegal entry into the properties was committed through "stealth" and "strategy", as was alleged by respondent in its Complaint[35], to wit:

"4. That on or about March 1996, defendants Spouses Juan Borbe Sr. and Lucy Borbe by means of strategy, stealth and taking advantage of the absence of the plaintiff, unlawfully entered Block 5, Lots 1 and 7 of said College View Park Subdivision and constructed dwelling structures thereon without the consent and permission of the plaintiff;

4.1. Defendant Juan Borbe, Jr. likewise on said date by means of strategy, stealth and taking advantage of the absence of the plaintiff, unlawfully entered another portion of Lot 7, Block 5 of the aforesaid subdivision and constructed dwelling structure thereon without the consent and permission of the plaintiff;

4.2. Defendants Joseph Rondina and Noemi Aranar, likewise on said date by means of strategy, stealth and taking advantage of the absence of the plaintiff, unlawfully entered another portion of Block 7, Lot 5 of the said subdivision and there and then constructed dwelling structure thereon without the consent and permission of the plaintiff-owner;

4.3. Defendant Raul Buenaobra by means of stealth and strategy unlawfully entered Block 4, Lot 28 of the aforesaid subdivision and there and then constructed dwelling structures thereon without the consent and permission of the plaintiff."[36] (Emphasis Supplied)

Petitioners' illegal entry into the properties in turn, was discovered by respondent on February 1996 thru Geodetic Engineer Enriquez Z. Mabasa ("Engr. Mabasa" for brevity), who, upon the request of respondent, conducted an ocular inspection on the properties. The pertinent portion of Engr. Mabasa's Affidavit[37] on the matter stated the following:

"4. That upon request of Meteor Company, Inc., owner-developer of College View Park Subdivision, I conducted an ocular inspection of the said property sometime in February 1996 and I discovered that a certain Juan Borbe, Sr. and his wife, Lucy Borbe, and Juan Borbe, Jr., have squatted on Block 5, Lots 1 and 7 which is covered by TCT No. 302320 of the Registry of Deeds of Marikina, Metro Manila and defendants Joseph Rondina and Noemi Aranar have squatted and like Spouses Juan Lucy Borbe and Juan Borbe, Jr. have constructed their dwelling structures on the portions they respectively occupied which is covered by TCT No. 302322 of the Registry of Deeds of Marikina, Metro Manila;

5. A certain Raul Buenaobra have squatted and built his dwelling structure on Lot 28, Block 4 of said subdivision which lot is covered by TCT No. 302319 of the Registry of Deeds of Marikina, Metro Manila; xxx"[38] (Emphasis and underlining supplied)

Respondent's discovery of petitioners' illegal entry into the subject properties having been on February 1996 was as also found by the MTC in its Decision[39] of May 22, 1998, which finding was affirmed by the RTC.[40]

Given that respondent's discovery of petitioners' illegal entry to the properties was on February 1996, then respondent had only until February 1997 to file its Complaint[41] for "FORCIBLE ENTRY". However, respondent filed its Complaint[42] already belatedly on October 15, 1997[43]. As a result, the MTC did not acquire jurisdiction over respondent's Complaint[44], since the one (1) year prescriptive period was also a requirement for the MTC to properly acquire jurisdiction over the case.

That the one (1) year prescriptive period for the filing of a Complaint for an Ejectment case, such as respondent's

Complaint[45] for “FORCIBLE ENTRY” here, is a jurisdictional requirement is pursuant to the following declaration of the Supreme Court in *Sps. Narciso Barnachea and Julita Barnachea vs. Hon. Court of Appeals, et al.*, G.R. No. 150025, July 23, 2008:

“The one-year period within which to commence an ejectment proceeding is a prescriptive period as well as a jurisdictional requirement.”[46] (Emphasis Supplied)

Consequently, there is no need to discuss petitioners' assigned errors 2., 3., and 4., given that respondent's Complaint[47] for “FORCIBLE ENTRY” was filed beyond the one (1) year prescriptive period. That this is the consequence was as similarly declared by the Supreme Court in *Florentino Go., Jr., et al., vs. Hon. Court of Appeals and Aurora I. Perez*, G.R. No. 142276, August 14, 2001:

“The RTC erred in treating the complaint as a case of forcible entry and ruling in favor of petitioners since there was no allegation and proof of prior physical possession by the petitioners. In forcible entry, the complaint must allege that one in physical possession of a land or building has been deprived of that possession by another through force, intimidation, threat, strategy or stealth. Moreover, the action should be brought within one year from date of forcible entry. In the case at bar, petitioners came to know that defendant was occupying the subject land way back in 1977, but filed the case only in 1995.

We agree with the Court of Appeals that if petitioners are indeed the owners of the subject lot and were unlawfully deprived of the real right of possession, they should present their claim before the regional trial court in an *accion publiciana* or an *accion reivindicatoria*, and not before the metropolitan trial court in a summary proceeding of unlawful detainer or forcible entry. For even if one is the owner of the property, the possession thereof cannot be wrested from another who had been in the physical or material possession of the same for more than one year by resorting to a summary action for ejectment. In view of the foregoing, it is unnecessary to pass upon the other issues raised in the petition at bar.” (Emphasis Supplied)

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

IN VIEW OF ALL THESE, the Petition for Review is GRANTED. The Regional Trial Court's assailed Decision[48] and Order[49] are SET ASIDE. Respondent's Complaint[50] against petitioners is DISMISSED.

SO ORDERED.

Dicdican, (Chairperson) and Dimagiba,[*] JJ., concur.

[*] Vice J. Paredes per Office Order No. 34-14-RSF

[1] Rollo, pp. 3-20

[2] Rollo, pp. 25-27, penned by Judge Francisco A. Querubin

[3] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos

[4] Previously a municipality of the Province of Rizal

[5] Rollo, p. 66

[6] Rollo, pp. 21, penned by Presiding Judge Mary Josephine P. Lazaro

[7] Rollo, pp. 22-24

- [8] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [9] Rollo, p. 66
- [10] Rollo, p. 28
- [11] Rollo, pp. 28-32
- [12] Rollo, p. 29
- [13] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [14] Rollo, p. 66
- [15] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [16] Rollo, p. 68
- [17] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [18] Rollo, p. 68
- [19] Rollo, p. 25
- [20] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [21] Rollo, pp. 25-27, penned by Presiding Judge Robert P. Fangayen
- [22] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [23] Rollo, pp. 22-24
- [24] Rollo, pp 21, penned by Presiding Judge Mary Josephine P. Lazaro
- [25] Rollo, pp. 3-20
- [26] Rollo, p. 17
- [27] Rollo, pp. 10-11
- [28] Rollo, pp. 28-32
- [29] 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, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, 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 or persons 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. (1a) (Emphasis Supplied)
- [30] “Complaint, Annex 'D-1’”, Rollo, p. 28
- [31] Rollo, p. 67
- [32] Rollo, pp. 28-32

- [33] Rollo, p. 56
- [34] Rollo, p. 29
- [35] Rollo, pp. 28-32
- [36] Rollo, p. 29
- [37] Rollo, p. 59
- [38] Rollo, p. 59
- [39] Rollo, pp. 66-68, penned by Presiding Judge Ruth Cruz-Santos
- [40] Rollo, p. 67
- [41] Rollo, pp. 28-32
- [42] Rollo, pp. 28-32
- [43] Rollo, p. 28
- [44] Rollo, pp. 28-32
- [45] Rollo, pp. 28-32
- [46] Sps. Narciso Barnachea and Julita Barnachea vs. Hon. Court of Appeals, et al., G.R. No. 150025, July 23, 2008
- [47] Rollo, pp. 28-32
- [48] Rollo, pp. 25-27, penned by Judge Francisco A. Querubin
- [49] Rollo, pp 21, penned by Presiding Judge Mary Josephine P. Lazaro
- [50] Rollo, pp. 28-32

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