

WINSTON JAVELLANA, PETITIONER, VS. ELEANOR J. REGALADO, RESPONDENT.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

This is a petition for review of the July 16, 2013 Decision[1] rendered by Branch 62 of the Regional Trial Court of Bago City, Negros Occidental in Special Civil Case No. 1812, which affirmed the Municipal Trial Court in Cities, Bago City, finding, among others, that Eleanor J. Regalado is entitled to the possession of Lot 3, Pcs 5200 in Civil Case No. M-BGO-11-012-CV.

Factual and Procedural Antecedents

The facts, as established by the trial court are as follows:

The property subject of this case is a sugarcane plantation denominated as Lot 3, Pcs 5200, consisting of an area of Eighty Eight Thousand Eight Hundred Eighty Seven Square Meters, more or less, situated in Barangay Lag-asan, Bago City Negros Occidental.

From the facts obtaining, the contending parties are siblings and they are claiming possessory right over the subject property owned by their sister, the late Milagros L. Javellana, who died single and no issue sometime on 10 October 2011.

Allegations in the complaint would show that plaintiff was the one administering the subject property during the lifetime of the decedent. She cultivated and planted the area to sugarcane and had been in physical possession thereof since 1989 until she was dispossessed by the defendant shortly after the demise of their sister, Milagros L. Javellana.

Plaintiff contends that the acts constitutive of forcible entry transpired on three (3) different occasions particularly on November 9, 10 and 17, 2011. During the inclusive dates, the defendant entered the subject property and by means of force, threat and intimidation he stopped the farm laborers of the plaintiff from harvesting and loading the sugarcane produce in the area. On November 17, 2011, the defendant took control and possession of that portion of the subject property, consisting of four (4) hectares, more or less, by ordering the laborers and “encargado” of the plaintiff to leave the premises and warned them not to enter the area anymore. Defendant put up sticks in the area and declared before the laborers that he is taking over the land. Since then up to the present, the defendant remained in possession of the subject property to the damage and prejudice of the plaintiff who was unlawfully prevented by the defendant from harvesting her sugarcane.

The defendant seasonably filed his answer to the complaint. He denies the acts constitutive of forcible entry. For his part, he claims that he is also an heir to the subject property similarly situated with the plaintiff. Defendant underscores that since their sister, Milagros, died single and no issue, the subject property should be reverted to the collateral heirs, namely:

1. Eleanor J. Regalado (plaintiff)
2. Winston Javellana (defendant)
3. Antonio L. Javellana; and

4. The late Raul Javellana, Jr., represented by Raul Joseph Javellana.

As such, defendant is entitled to occupy, cultivate and harvest one fourth ($\frac{1}{4}$) of the subject property or equivalent to 2.222 hectares. Defendant stressed that plaintiff had already harvested her share and the share of Raul Joseph Javellana, what remains therefore is the share of the defendant and Antonio L. Javellana equivalent to four (4) hectares of the subject property. Further stated, the plaintiff cannot appropriate the entire area of the subject property, measuring about 88,887 square meters, since the same will be distributed to the heirs under the Declaration of Heirship and Extrajudicial Partition of Estate and each heir can claim only one fourth ($\frac{1}{4}$) of the subject property. There being no Will presented in court for probate, it follows that plaintiff cannot claim the entire area of the disputed property.

Ruling of the MTC

On February 26, 2013, the trial court rendered its decision favoring the plaintiff. The trial court rejected the defendant's (now petitioner) argument that as co-heir of the subject property, he was merely exercising his right to possess one fourth ($\frac{1}{4}$) of the subject property and harvest the sugarcane planted thereon. The trial court opined that while there is no question that the parties in this case will be confronted by such legal issues in the future, the defendant's argument cannot be sustained in this ejectment case where the only issue involved is de facto possession of the premises.

The trial court further ruled that the defendant's (now petitioner) act of surreptitiously taking over the land and excluding the plaintiff (now respondent) who has prior possession therefrom is the very evil sought to be avoided in this case. Moreover, the defendant took it upon himself to harvest the sugarcane found on the subject property merely on the belief that he is also entitled to that portion of the property without showing that he was the one who planted the sugarcane.

The decretal portion of the trial court's Decision[2] is hereunder quoted, to wit:

“WHEREFORE, foregoing premises considered, judgment is hereby rendered in favor of plaintiff and against the defendant, as follows:

1. Ordering defendant Winston Javellana and all other persons claiming rights and interest under him to vacate the premises of Lot No. 3, Pcs 5200, a portion containing an area of 4.4. hectares, more or less, the property subject matter of this case;
2. Ordering defendant to pay plaintiff a reasonable compensation in the form of rental for the use of the portion/ area of the subject property in the amount of PhP10,000.00 per hectare per crop year from December 5, 2011, the date of filing before this court until complete delivery of possession of the said property to the plaintiff; and
3. For defendant to pay the cost of suit.

SO ORDERED.”

Ruling of the RTC

Aggrieved by the trial court's ruling, the defendant (now petitioner) filed an appeal before the Regional Trial Court, Branch 62 of Bago City. However, the RTC did not find fault in the trial court's decision and affirmed the same ruling that the plaintiff (now respondent) clearly established by preponderance of evidence that defendant Winston Javellana exerted force, intimidation, threat, strategy or stealth in entering the premises occupied and possessed by the former.

Thus, the RTC, on July 16, 2013 rendered its Decision[3], the dispositive portion of which, states:

“WHEREFORE, premises considered, there being no cogent reason to disturb the decision of the Lower Court dated February 26, 2013 which is the subject of this appeal, the same is hereby AFFIRMED IN TOTO.

SO ORDERED.”

The petitioner Javellana timely filed a Motion for Reconsideration[4], but, in its Order[5] dated September 9, 2013 the RTC denied the motion for failure of Javellana to comply with Sections 4 and 5, Rule 15 of the Rules of Court, which requires that “every written motion shall be set for hearing by the applicant”[6], and that the motion should be accompanied with a notice of hearing addressed to all parties and that said notice “shall specify the time and date of the hearing”[7].

On September 27, 2013, petitioner filed before this Court a Petition for Review[8] under Rule 42 of the Rules of Court. On December 19, 2013, the respondents filed her Comment[9] to the petition. This case was declared submitted for decision in a Resolution dated June 9, 2014[10].

The case for the petitioner

The petitioner argues that both the MTCC and the RTC erred in holding that private respondent Eleanor J. Regalado and her farm workers were in prior possession of the property of the late Milagros Javellana prior to the petitioner Winston Javellana's takeover of his portion of the property.

According to petitioner, the fact of the matter is that the late Milagros Javellana did not execute any document giving the administration of her land to their sister Eleanor. No evidence was submitted in court to show that the respondent Eleanor J. Regalado is the administratrix of the land of their late sister. In fact, petitioner argues, it is impossible for Milagros Javellana to have appointed Regalado as administratrix in 1989 since their sister Milagros was living with the petitioner from 1978 to 2008.

Moreover, petitioner contends that the copy of the Last Will and Testament submitted by respondent Regalado (Exhibit “I”) shows that respondent Regalado is entitled to one half ($\frac{1}{2}$) of the property of Milagros Javellana and another one half ($\frac{1}{2}$) shall belong to Antonio Javellana. Since Regalado already harvested one half ($\frac{1}{2}$) of the sugarcanes planted in the property of Milagros Javellana, then the remaining one half ($\frac{1}{2}$) of the sugarcanes planted therein belong to Antonio Javellana. Therefore, Regalado has no right to claim the entire sugarcane plantation consisting of 88,889 sq.m. of the late Milagros Javellana. Petitioner argues.

The case for the respondent

On the other hand, the respondent argues that this petition should be dismissed since the Decision of the RTC had already become final. For failure of the petitioner to comply with Sections 4 and 5 of Rule 15, the motion for reconsideration filed by the petitioner before the RTC did not toll the period within which to appeal the RTC Decision dated July 13, 2013. The respondent argues that since the period of appeal was not tolled, the decision of the RTC became final and executory after the lapse of 15 days from receipt of of the petitioner of his copy of the decision, which was on August 22, 2013. Therefore, this petition was filed way out of time, respondent argues.

Th respondent likewise brushed aside the petitioner's submission that there is no evidence record to show the respondent's prior possession over the subject property. Respondents contend that the fact of prior possession was duly proven via the sworn statements of Horacio Alipato and Catherine Regalado, which form part of the record of this case.

Finally, respondent contends that the petitioner's assertion that he is entitled to a portion of the property being one of the heirs of the late Milagros Javellana does not justify the act of forcibly entering the property and depriving the occupant thereof of possession.

Issues

The petitioner raises the following issues:

- Whether or not the respondent Ragalado has submitted any evidence that she is the administratrix of the late Milagros L. Javellana, and that she planted the sugarcane in the land of Milagros L. Javellana;
- Whether or not the respondent Ragalado is entitled to damages.

Ruling of this Court

This petition for review is not meritorious.

Possession in forcible entry cases means nothing more than physical possession or possession de facto, not legal possession in the sense contemplated in civil law. Only prior physical possession, not title, is the issue.[11] In such case, the complainant must prove that she had prior physical possession and that she was deprived of it through force, intimidation, threat, strategy or stealth.

In the instant case, respondent sufficiently proved that she had prior physical possession of the lot in question. The evidence on record disclose that it was respondent Regalado who had been planting sugarcane on the lot in question during the lifetime of their late sister, Milagros Javellana, and even after the latter's death in October 10, 2011[12].

The MTCC considered as vital evidence to show that indeed, it was respondent who was in prior possession the petitioner's own admission that he entered the subject property and told the farm workers of Regalado to stop harvesting considering that he is also entitled to the possession of the 4.4 hectares of the land and the sugarcane together with his brother Antonio Javellana.[13]

We do not find tenable petitioner's contention that as one of the heirs of the late Milagros Javellana, he is entitled to take over the possession of the 4.4 hectare portion of the subject property, more so in the light of a Last Will and Testament executed by the late Milagros Javellana disinheriting the petitioner, Winston Javellana. In short, the issue of succession over the subject property has yet to be determined by a court of competent jurisdiction making the petitioner's claim over the property all the more precarious. Indeed, as correctly ruled by both MTCC and the RTC, if herein petitioner believes that he has a share in the land of the late Milagros Javellana, then he should have enforced his claim thereto via an appropriate case for partition filed before a court of competent jurisdiction. In this case, the petitioner Javellana took the law into his own hands and ousted the respondent who had exercised prior possession over the land of their late sister. As held by the Supreme Court in *Manlapaz vs. Court of Appeals*[14], "in giving recognition to the action of forcible entry and detainer, the purpose of the law is to protect the person who in fact has actual possession; and in case of controverted right, it requires the parties to preserve the status quo until one or the other of them sees fit to invoke the decision of a court of competent jurisdiction upon the question of ownership. It is obviously just that the person who has first acquired possession should remain in possession pending this decision."

On the matter of whether or not there was force exerted on respondent when she was ousted from the land, the pleadings on record show that on November 17, 2011, the petitioners told respondent's farm workers to stop harvesting the sugarcane, leave the premises and warned them not to enter the portion claimed by petitioner.[15] The petitioner failed to controvert this fact, aside from submitting before this court his justification for these acts being one of the heirs of their late sister, Milagros Javellana, purportedly entitling him to take over and harvest the sugarcane on the 4.4. hectare portion claimed by the petitioner.

This scenario sufficiently shows that respondent Regalado was dispossessed of the land through force because

according to the Supreme Court, “in order to constitute force that would justify a forcible entry case, the trespasser does not have to institute a state of war. The act of going to the property and excluding the lawful possessor therefrom necessarily implies the exertion of force over the property which is all that is necessary and sufficient to show that the action is based on the provisions of Section 1, Rule 70 of the Rules of Court.”[16]

Finally, the MTCC and the RTC correctly ruled that the respondent, being the prevailing party, is entitled to damages, but only in the form of rental or the reasonable compensation for the use and occupation of the subject property. This is consistent with the ruling of the Supreme Court in *Car Cool Philippines vs. Ushio Realty and Development Corporation* which cites *Benitez v. Court of Appeals*[17], to wit:

"x x x Damages are recoverable in ejectment cases under Section 8, Rule 70 of the . Revised Rules of Court. These damages arise from the loss of the use and occupation of the property, and not the damages which private respondents may have suffered but which have no direct relation to their loss of material possession. Damages in the context of Section 8, Rule 70 is limited to "rent" or "fair market value" for the use and occupation of the property."

WHEREFORE the petition is DENIED for lack of merit. The Decision of the Regional Trial Court of Bago City, Negros Occidental in Special Civil Case No. 1812, which affirmed the Municipal Trial Court in Cities, Bago City, finding, among others, that Eleanor J. Regalado is entitled to the possession of Lot 3, Pcs 5200 in Civil Case No. M-BGO-11-012-CV is hereby AFFIRMED in its entirety.

SO ORDERED.

Maxino, P.A.A., and [*]Lagura-Yap, M.B., JJ., concur.

[1] Rollo, pp. 17-22, penned by Hon. Manuel O. Cardinal, Jr., Assisting Judge, RTC of Bago City, Branch 62.

[**] Acting Junior Member in lieu of J. Renato C. Francisco's leave of absence as per Office Order No. 29-14-GTI dated 22 December 2014.

[2] Rollo, pp. 128-133.

[3] Rollo, pp. 17-22.

[4] Rollo, pp. 26-37.

[5] Rollo, pp. 23-25.

[6] Section 4, Rule 15.

[7] Section 5, Rule 15.

[8] Rollo, pp. 3-14.

[9] Rollo, pp. 108-115.

[10] Rollo, p. 129.

[11] *Abad v. Farrales*, G.R. No. 178635, 11 April 2011.

[12] See Affidavits of Horacio Alipato and Catherine Regaladao, pp. 116-117, rollo, referred to as Exhs. “F” and “H” attached to the Position Paper for the Plaintiff, page 58, rollo.

[13] See page 4 of MTCC Decision dated February 26, 2013, page

[14] 191 SCRA 795.

[15] See Affidavits of Horacio Alipato and Catherine Regaladao, pp. 116-117, rollo, referred to as Exhs. “F” and “H” attached to the Position Paper for the Plaintiff, page 58, rollo.

[16] Sps. Baes v. Lutheran Church of the Phils, G.R. No. 142308, 15 November 2005.

[17] G.R. No. 104828, 16 January 1997, 266 SCRA 242.

G.R. No. 138088, January 23, 2006, 479 SCRA 404.

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