

ESPERANZA BAPTISTA, ASSISTED BY HER HUSBAND, ARTURO VILLANUEVA, PETITIONERS, VS. URBANO CARILLO, AND THE HON. COURT OF APPEALS, RESPONDENTS.*G.R. No. L-32192. July 30, 1976*

Ponente: MUÑOZ PALMA, J.

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This is a simple forcible entry case which commenced on June 14, 1963, in the Municipal Court of Quezon City, Branch III, on the basis of a complaint filed by Urbano Carillo against Esperanza Baptista, her husband Arturo Villanueva, and Atty. Loreto Abella, concerning a residential lot situated in Quezon City which plaintiff Carillo had bought from the People's Homesite and Housing Corporation. The Municipal Court rendered judgment in favor of plaintiff Carillo on December 6, 1963 ordering defendants to vacate the lot in question, and to pay rentals while in possession thereof. Appeal was made to the Court of First Instance, Quezon City, then presided by the late Hon. Judge Nicasio Yatco, who in his decision dated March 19, 1964, affirmed the judgment ejecting the defendants without awarding payment of rentals, and dismissing the complaint as against Atty. Loreto Abella. Defendants elevated the case to the Court of Appeals and the latter in a decision promulgated on April 6, 1970 affirmed in toto the decision of the lower court.[1] A motion for reconsideration was filed by defendants-appellants, but the same having been denied, the latter brought the case to this Court in a Petition for Review on Certiorari filed on July 27, 1970.

The findings of the trial court and respondent appellate tribunal establish the following:

On December 23, 1958, under a conditional contract of sale, the People's Homesite and Housing Corporation to which We shall refer hereinafter as PHHC, awarded to respondent Urbano Carillo lot 6, Block E-154, with an area of 600 square meters, of the East Avenue Subdivision, Quezon City (Exh. A). Soon after the execution of that contract Carillo took possession of the lot by fencing it with bamboo poles and barbed wire. In the month of April, 1963, upon visiting the place Carillo saw two men working on what appeared to be the foundations of four posts. Carillo immediately reported the matter to the City Engineer of Quezon City who sent official communications to the City Mayor requesting that necessary action be taken against the intruders so as to stop the latter from further proceeding with their construction for which no building permit had been secured (Exhs. C and D). Because no action was taken by the authorities, Carillo was compelled to file this complaint on June 14, 1963 as earlier indicated.

In seeking relief from this Court, Petitioners in their brief assign several errors which may be restated as follows:

1. That respondent court erred in holding that petitioners occupied the premises in question only in May, 1963;
2. That respondent court erred in sustaining the trial court's finding that the plaintiff (now respondent) is entitled to the possession of the lot in question; and
3. That respondent court erred in affirming the judgment of the Court of First Instance, and in not upholding

the preferential rights of petitioners to acquire the lot in question and not declaring that private respondent is disqualified to acquire lots from the PHHC, particularly the disputed property. (pp. 15-16, Brief for the Petitioners)

1. Petitioners in their first assignment of error assail the findings of respondent appellate court concerning the date when they took possession of the lot in question. Petitioners insist that they occupied lot 6 way back in 1956; respondent Court however held that petitioners entered and occupied the lot only in May of 1963, after the property had been awarded to respondent Urbano Carillo.

On this point, We have to restate the settled rule in this jurisdiction that findings of fact of the Court of Appeals are binding and conclusive on this Court. In *Fortus vs. Novero* this Court, reiterating the ruling in a long line of cases, stressed that on an appeal by certiorari from a decision of the Court of Appeals to the Supreme Court the latter may not review the findings of fact of the former, and that where the query necessarily invites calibration of the whole evidence, considering mainly the credibility, of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation, the question, must be factual for the Appeals' Court to resolve.[2] The rule of course is not absolute, and among the accepted exceptions are: the conclusion is grounded entirely on speculation and conjectures,[3] or the inferences made are manifestly absurd or impossible,[4] or there is abuse of discretion in that the findings of fact are without competent evidence to support them,[5] none of which however obtains in the instant case.

The matter in dispute, i.e., the date when petitioners herein occupied lot 6 is one of fact which respondent court resolved against petitioners and which We do not review or disturb considering that the appellate court's findings on the point are supported by testimonial and documentary evidence existing in the record of the case.

To support however their claim that they have been occupying this particular piece of property since 1956, petitioners now submit to Us various documents attached as annexes to their petition, among which are communications dated 1954 and 1955 to the late President Ramon Magsaysay for and in behalf of families "squatting on the land of the People's Homesite and Housing Corporation otherwise known as Barrio Piñahan, Diliman, Quezon City," praying that the land be subdivided into small lots for distribution to its resident-occupants, and other papers related thereto (annexes A,B, to B-9, pp. 25-33, rollo), a plain copy of an alleged office order dated September 5, 1958, of the People's Homesite and Housing Corporation (annex C, p. 34, *ibid*), Articles of Incorporation of Piñahan Homeowners' Association, Inc. registered with the Securities & Exchange Commission on August 24, 1962 (annex D, pp. 35-43, *ibid*.), and a plain copy of an alleged transcript of stenographic notes of the hearing held on November 5, 1963 before Judge Nicasio Yatco in Civil Case No. Q-7420 entitled "People's Homesite and Housing Corporation vs. Esperanza Baptista, et al, defendants" (annex E, pp. 44-48, *ibid*.)

We agree, however, with counsel for private respondent that these documents are immaterial at this stage of the litigation inasmuch as they were "never brought out and presented during the trial below" and respondent Carillo was not given the opportunity to examine them to test their "materiality relevancy and genuineness," not to mention the fact that their acceptance would reduce this Court "into the category of a commission for the reception of evidence ex-parte," (pp.5-7, respondent's brief, p. 163, *ibid*.)

At any rate, even if We were to consider these annexes A to E in resolving this Petition, they would not improve the position of petitioners for the following reasons: (a) annexes A, B to B-9, do not make reference to petitioners as among the squatters in Barrio Piñahan in 1954-1955; (b) annex C, supposedly an Office Order dated September 5, 1958, of the PHHC, is simply a directive stating the conditions to be followed in awarding the lots in the East and Malaya subdivisions; (c) annex D shows that the Piñahan Home-owners' Association, Inc. of which petitioner, Esperanza Baptista, was listed as a member, was organized and registered with the Securities and

Exchange Commission on August 24, 1962 (the award of lot 6 to Urbano Carillo was made on December 23, 1958); (d) annex E gives the alleged testimony of Lazaro Robles, Chief Demolition Section of the PHHC at the hearing of Civil Case No. Q-7420,[6] from which We gather the information that on June 1, 1963, this witness saw two old houses standing on lot 6, one of them belonging to Esperanza Baptista (tsn. 3, p. 46 rollo) and when he went to the lot again on June 6, 1963, there was already the skeleton of a new house belonging also to Baptista (tsn. 1, p. 44 rollo), and that those “two old houses were just transferred” by the defendants “for about two months only” (tsn. 4, p. 47 rollo) — all of which bolster the findings of the trial and the appellate courts that it was around May of 1963 that the petitioners occupied lot 6.

2. In their second and third assigned errors petitioners submit that respondent Court erred in disregarding petitioners’ contention that Urbano Carillo is not qualified to purchase the lot in question from the PHHC because he is an American citizen plus the fact that Carillo’s wife who is a Filipino citizen is already an awardee of another PHHC lot. Petitioners allege that being the actual occupants of lot 6, they have the preferential right to acquire the same.

An examination of the decision of respondent Court shows that it resolved the appeal of herein petitioners solely on the question of possession, and rightly so.

In a forcible entry case the primary issue to be decided is the physical or material possession of real property — possession de facto — and not possession de jure. An action of forcible entry is by its nature a summary proceeding the purpose of which is to protect the person who in fact is in actual possession, and in case of a controverted right, to preserve the status quo until one of the other sees fit to invoke the decision of a court of competent jurisdiction upon the question of ownership. The foregoing was stated by this Court in the early case of *Mediran vs. Villanueva, et al.*, March 9, 1918, 37 Phil. 752, 757. In the words of Justice Street who wrote the *Mediran* decision it is obviously just that the person who has first acquired possession should remain in possession pending decision of the case, and the parties cannot be permitted meanwhile to engage in a petty warfare over the possession of the property which is the subject of dispute for to permit this would be highly dangerous to individual security and disturbing to social order.[7]

In *Garcia vs. Anas, et al.*, the Court emphasized that in an action for ejectment the only issue involved is one of possession de facto, the purpose, of which is merely to protect the owner from physical encroachment from without, and that the main thing to be proven is prior possession, and if the same is lost thru force, stealth or violence, it behooves the court to restore it regardless of its title or ownership.[8]

Thus, respondent appellate court correctly skirted or avoided the foreign issues injected by herein petitioners, by limiting itself to resolving the question of possession of lot. 6.

The matter as to the validity of the conditional contract of sale entered into between Urbano Carillo and the PHHC, the lack of qualification of the former to purchase lot 6, and the alleged preferential right of petitioners to acquire the property — all these are beyond a forcible entry case especially since the PHHC is not a party to this case.[9]

Private respondent justifiably argues in his brief that the validity of the contract between him and the PHHC cannot be collaterally attacked in this proceeding and until that contract is declared null and void by a competent court in an appropriate action said contract stands to support his cause of action in this ejectment case (Brief of respondents, p. 11).

The records show[10] that petitioners herein filed before the Court of First Instance of Quezon City a complaint against respondent Carillo and the latter’s wife, Cecilia Jimenez Carillo, and the PHHC, docketed as Civil Case

Q-7825, which sought to declare null and void the conditional contract issued in favor of Urbano Carillo and to order the defendant PHHC to sell said lot to the herein petitioners. That Case is the proper forum where these issues raised by petitioners are to be ventilated and resolved. In the meantime, however, defendant Urbano Carillo or his successors-in-interest are entitled to be placed in possession of the property object of this summary action. To quote then Chief Justice Roberto Concepcion in *De la Cruz vs. Burgos*, ". . . in an action for forcible entry and detainer, the main issue is one of priority of possession. The legal right thereto is not essential to the possessor's cause of action, for no one may take the law into his own hands and forcibly eject another or deprive him of his possession by stealth, even if his title thereto were questionable or actually disputed in another case." [11]

PREMISES CONSIDERED, the decision of respondent Court of Appeals is affirmed and petitioners and all other persons claiming under them are hereby ordered to vacate Lot 6, Block E-154, East Avenue Subdivision of the PHHC, Quezon City, and to return said lot to the possession of respondent Urbano Carillo or his successors-in-interest. With costs against petitioners.

SO ORDERED'

Teehankee, (Chairman), Makasiar, Aquino, and Martin, JJ., concur.

[1] Decision of Fourth Division composed of Justices Lucero, Soriano and Leuterio, pp. 104-108, rollo.

[2] L-22378 June 29, 1968 per Dizon, J., ponente, 23 SCRA 1330, citing *Cuyugan vs. Santos*, 34 Phil. 100; *Tolentino vs. Gonzales*, 50 Phil. 558; *Cabrera vs. Lopez*, 84 Phil. 834, *Pacheco vs. Arro*, 85 Phil. 505. See also *Chan vs. Court of Appeals, et al.* L-27488 June 30, 1970, per Fernando, J., 33 SCRA 737, and numerous cases cited therein; and *Perido vs. Perido*, per Makalintal, C.J., L-28248, March 12, 1975, 63 SCRA 97, 104.

[3] *Joaquin vs. Navarro*, 93 Phil. 257.

[4] *Luna vs. Linatoc*, 74 Phil. 15.

[5] *Tagumpay Minerals & Mining Association vs. Masangkay, et al.*, L-28946, August 18, 1972, per Antonio, J., 46 SCRA 608. See also *Garcia, et al. vs. Court of Appeals, et al.*, L-26490, June 30, 1970, 33, SCRA 622; *Napolis vs. Court of Appeals, et al.*, L-28865, February 28, 1972, 43 SCRA 301; *Evangelista & Co., et al. vs. Abad Santos*, L-31684, June 28, 1973, 51 SCRA 416; *Tingco vs. De la Merced, et al.*, L-24426, July 25, 1974, 58 SCRA 89; *Tapas, et al. vs. Court of Appeals, et al.*, L-22202, Feb. 27, 1976, 69 SCRA 393.

[6] Civil Case Q-7420, entitled *People's Homesite and Housing Corporation vs. Esperanza Baptista, et al.* was an action for ejectment which was dismissed without prejudice for lack of jurisdiction.

[7] 37 Phil. 757.

[8] L-20617, May 31, 1965, per Bautista Angelo, J., 14 SCRA 248, 250. See also *Prado vs. Calpo*, L-19370, April 30, 1964, 10 SCRA 801; *De la Cruz, et al. vs. Burgos, et al.*; L-28095, July 30, 1969, per Concepcion, C.J., 28 SCRA 977, *Jovito Dizon vs. Concina, et al.* L-23756, Dec. 27, 1969, 30 SCRA 897, per Sanchez, J.; *Bardelas, et al. vs. Hon. Rodriguez, et al.* L-38467, June 28, 1974, First Division, per Esguerra, J., 57 SCRA 729.

[9] In pages 197-199 of the rollo there appear manifestations showing that Urbano Carillo had sold the property in litigation.

[10] Annexes H, I, K. L of the Petition, pp. 52-72, rollo. Civil Case Q-7825 has been ordered archived by the Court of First Instance of Quezon City pending decision in this ejectment case.

[11] 28 SCRA 977, 983, citing *Pitarque vs. Sorilla*, 92 Phil, 5; *Lopez vs. Santiago*, 107 Phil. 668; *Supia vs. Quintero*, 59 Phil. 312; *De Gaerlan vs. Martinez*, 85 Phil 375.

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