

SPOUSES DANIEL AND CARMELITA MARIANO, PETITIONERS, VS. LEONIDA SUMULONG, RESPONDENT.

Ponente: BALTAZAR-PADILLA, J.

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BALTAZAR-PADILLA, J.:

This petition for review under Rule 42 of the Revised Rules of Court filed by petitioners against respondent, seeks to nullify and set aside the April 22, 2013 Decision[1] and the December 3, 2013 Order[2] of Branch 154 of the Regional Trial Court (RTC) of Pasig City in SCA Case No. 3790-PSG which affirmed with modifications the December 2, 2012 Decision[3] rendered by Branch 68, Metropolitan Trial Court (MeTC) of Pasig City in Civil Case No. 13979 for unlawful detainer.

The factual antecedents as gathered from the impugned Decision of the RTC are as follows:

“In her complaint, plaintiff (respondent herein) alleges that she is the registered owner of the 68-square meter lot and the improvement thereon, located at 55 Industria Extension/Blumentritt St., Kapasigan, Pasig City and covered by Transfer Certificate of Title No. PT-86744, Registry of Deeds[,] Pasig City. Plaintiff's ownership of the property was the result of the levy on execution of said property by the Regional Trial Court, Branch 152, Pasig City in Civil Case No. 58538 pursuant to its Decision dated December 6, 1989.

Plaintiff also claims that defendants Catalino Seraspi, Leslie Seraspi, and Daniel Mariano and his wife pleaded with her that they be allowed to stay on her property. For humanitarian consideration, plaintiff allowed the defendants to stay on her property on condition that defendants shall vacate the property should she needs the same in the future.

Further, plaintiff claims that in March 2007, she informed the defendants of her need to use her property but the latter refused to vacate the same. Thus, plaintiff was constrained to seek the assistance of a lawyer who sent on July 4, 2007 demand letters to defendants to vacate the premises and pay, as and by way of reasonable compensation or rentals, the sum of P18,000.00 per month effective March 2007 plus 10% increase per annum effective March 2008 until such time that the defendants shall have vacated the property. Plaintiff also brought the dispute to the barangay, but in vain. To protect her rights and interests over the property and against defendants' unlawful actuation, plaintiff was constrained to engage the services of a counsel for a fee of P50,000.00 by way of attorney's fees.

As a relief, plaintiff prayed that judgment be rendered ordering the defendants and all persons claiming right and/or authority under anyone of them to immediately vacate the premises and return the possession thereof; and, to jointly and solidarily pay the plaintiff the following: (a) a monthly rental of P18,000.00 effective March 2007, with an annual increase of ten percent (10%), effective March 2008, and every year thereafter, until such time that all the defendants shall have actually vacated the premises; (b) the sum of P100,000.00 by way of moral damages; (c) P50,000.00 as attorney's fees, plus P4,000.00 per court hearing; and (d) costs of suit.”

On December 2, 2012, the MeTC rendered a Decision in favor of respondent, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the

defendants, as follows:

1. Ordering the defendants and all persons claiming rights and authority under them to vacate the property covered by Transfer Certificate of Title No. PT-86744 located at No. 55 Industria Extension/Blumentritt Street, Kapasigan, Pasig City and peacefully surrender the possession thereof to plaintiff;
2. Ordering the defendants to pay the plaintiff the amount of P10,000.00 as attorney's fees; and
3. Ordering the defendants to pay plaintiff the costs of suit.

SO ORDERED.”

The MeTC held that petitioners' occupation was merely by tolerance of respondent who is the owner of the contested lot. Being its owner, respondent has a better right to use and possess the subject property and has a right of action against the holder and possessor thereof in order to recover it. More so, petitioners' tolerated possession was terminated when respondent demanded them to vacate the contested property on July 4, 2007. Possession by tolerance is lawful but this possession becomes illegal when, upon demand to vacate by the owner, the possessor refuses to comply with such demand.

Thereafter, petitioners and respondent appealed the aforesaid Decision to the RTC. Accordingly, the RTC affirmed the aforesaid MeTC Decision with modifications, disposing as follows:

“WHEREFORE, foregoing considered, the appealed Decision dated December 2, 2012 of the Metropolitan Trial Court, Branch 68, is hereby AFFIRMED with the following modifications:

1. Ordering the defendants and all persons claiming rights and authority under them to vacate the property covered by Transfer Certificate of Title No. PT-86744 located at No. 55 Industria Extension/Blumentritt Street, Kapasigan, Pasig City and peacefully surrender the possession thereof to the plaintiff;
2. Ordering defendants to pay reasonable rent at the rate of P9,000.00 per month counted from March 2007 until they have fully vacated the place;
3. Ordering the defendants to pay the plaintiff the amount of P10,000.00 as attorney's fees; and
4. Ordering the defendants to pay the costs of suit.

SO ORDERED.”

The RTC decreed that the MeTC erred in not fixing the reasonable compensation for the use and occupation of the subject property. The trial court had the authority to fix the reasonable value for the continued use and occupancy of the questioned lot if after trial it finds that the allegations in the complaint are true. Likewise, the said court emphasized that the jurisdictional requirement of prior demand had been duly complied with by respondent when the latter verbally asked petitioners to vacate the property as early as March 2007. Petitioners however refused to heed to the request. Respondent's action for ejectment arose from the time of petitioners' refusal to vacate the disputed lot.

Petitioners filed a motion for reconsideration of the RTC Decision but the same was denied in an Order dated December 3, 2013.

In the present petition for review, petitioners raise before US the following issues, to wit:

I

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN IGNORING THE FACT THAT THE HONORABLE METROPOLITAN TRIAL COURT HAS NO JURISDICTION OVER THE SUBJECT

MATTER AS THE ISSUES OF THE INSTANT CASE EXTEND BEYOND THE REALM OF AN ACTION FOR UNLAWFUL DETAINER.

II

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN IGNORING THE FACT THAT NO DEMAND LETTER WAS SENT TO AND RECEIVED BY PETITIONERS AS THE SAME WAS ACTUALLY SENT BY PRIVATE RESPONDENT TO HER OWN RESIDENTIAL ADDRESS.

III

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN GRANTING THE CLAIM FOR RENTAL OR REASONABLE COMPENSATION AT THE RATE OF P9,000.00 PER MONTH DESPITE THE FACT THAT NO EVIDENCE WAS PRESENTED TO SUPPORT SUCH CLAIM.

IV

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN GRANTING AN AWARD OF ATTORNEY'S FEES AND COST OF SUIT DESPITE THE FACT THAT NO EVIDENCE WAS PRESENTED TO SUPPORT SUCH CLAIM.

Petitioners contend that where the issues of an action for unlawful detainer extend beyond those commonly involved in an action for unlawful detainer, the case is converted from a mere detainer suit to one incapable of pecuniary estimation, thereby placing it under the exclusive original jurisdiction of the RTC. Further, petitioners are not occupying the questioned lot on the mere tolerance of respondent because they are the lawful owners of the residential house constructed thereon. The said house had been their family home for more than 30 years. Respondent cannot instantly appropriate to herself the said house without paying them indemnity as explained in Article 448 of the Civil Code. Otherwise, respondent will be unjustly enriching herself at their expense. As builders in good faith, petitioners' titles, rights and interests over the lot in dispute are protected by law.[4]

Petitioners also insist that no demand to vacate the subject lot was made by respondent before filing the extant case. The LBC official receipts presented by respondent readily show that the demand letters were sent by her counsel to her residential address at "No. 25 Industria Extn St., Kapasigan" and not to those of petitioners. The jurisdictional requirement of prior demand is evidently lacking which necessitates the outright dismissal of this case.[5]

Petitioners maintain that the lower court erred when it ruled that they should pay respondent a monthly rate of P9,000.00 as rentals or reasonable compensation for their use and occupation of the disputed lot. No evidence was presented by respondent to support her entitlement to such amount. While the court may fix the reasonable amount of rent, it must still base its action on the evidence adduced by the parties. The reasonable amount of rent could be determined not by mere judicial notice but by supporting evidence. Sans any evidence, the trial court cannot award the monthly rate of P9,000.00 to respondent.[6]

In her Comment, respondent counters that her allegations in the complaint are sufficient to establish a case for unlawful detainer which is within the original and exclusive jurisdiction of the MeTC. The complaint alleged that she is the owner of the subject house and lot. She allowed petitioners to occupy the same upon their pleas and corresponding assurance that they will vacate it should respondent need the subject property. She notified petitioners of her need to use the property but they refused to vacate the same. From then on, petitioners' possession of the contested lot became illegal. These allegations painted an unmistakable case for unlawful detainer which is cognizable by the MeTC.[7] In addition, petitioners' argument that there was no prior demand does not hold water. Respondent's allegation in the complaint that in spite of demands made by her, petitioners

had refused to restore the property and that her counsel sent demand letters to petitioners are sufficient compliance with the jurisdictional requirement of previous demand.[8]

Respondent points-out that petitioners' claim of ownership and possession of the contested property for more than 30 years is without any factual basis. No substantial documentary evidence was ever presented to support such claim. Aside from their self-serving allegation, a mere tax declaration was submitted to prove ownership of the residential building. Nonetheless, a tax declaration by itself is not sufficient to prove ownership. In addition, it is well-settled that inferior courts may not be divested of their jurisdiction over ejectment cases simply because the defendant sets up a claim of ownership over the litigated property.[9]

Finally, respondent discourses that she is entitled to damages caused by her loss of petitioners' use and possession of the lot in question. Respondent became the registered owner of the subject property as early as 1992. Since then and until the notice to vacate in 2007, petitioners were allowed to use the disputed property without pay out of respondent's generosity. Considering that for years petitioners have been gratuitously enjoying the subject property owned by respondent, it is only proper that the latter be paid reasonable rent or compensation for the use and occupation of her property conformably with the principles of justice, equity and unjust enrichment.[10]

WE find no merit in the petition.

Unlawful detainer is an action to recover possession of real property from one who illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The possession by the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess. The proceeding is summary in nature, jurisdiction over which lies with the proper Municipal Trial Court or Metropolitan Trial Court. The action must be brought within one year from the date of last demand, and the issue in the case must be the right to physical possession.[11]

The subject of OUR disquisition is Section 1, Rule 70 of the Rules of Court which provides:

“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.”

A complaint sufficiently alleges a cause of action for unlawful detainer if it states the following:

- (a) Initially, the possession of the property by the defendant was by contract with or by tolerance of the plaintiff;
- (b) Eventually, such possession became illegal upon notice by the plaintiff to the defendant about the termination of the latter's right of possession;
- (c) Thereafter, the defendant remained in possession of the property and deprived the plaintiff of its enjoyment; and
- (d) Within one year from the making of the last demand to vacate the property on the defendant, the plaintiff instituted the complaint for ejectment.[12]

Here, respondent's allegations in the complaint clearly make out a case for unlawful detainer, essential to confer

jurisdiction over the subject matter on the MeTC. First, it averred that petitioners possessed the property by the mere tolerance of respondent. Second, respondent demanded that petitioners vacate the property. Third, petitioners remained in possession of the property despite the demand to vacate thereby rendering their possession illegal. Fourth, respondent instituted the complaint on November 23, 2007[13], which was well within the one-year prescribed period whether it be reckoned from the time of oral demand in March, 2007 or from the written demand made on July 4, 2007.[14]

Petitioners claim that they are not occupying the subject lot by respondent's tolerance. They are doing so in their own right having built the house standing thereon which had been their home for more than 30 years.

Where the parties to an ejectment case raise the issue of ownership, the courts may pass upon that issue to determine who between the parties has the better right to possess the property. However, where the issue of ownership is inseparably linked to that of possession, adjudication of the ownership issue is not final and binding, but only for the purpose of resolving the issue of possession. The adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.[15]

WE hold that respondent has the better right of possession de facto over the subject lot. Respondent has a Torrens Title to the property as evidenced by TCT No. PT-86744[16]. As the registered owner, respondent has the right to the possession of the property, which is one of the attributes of ownership. Well-entrenched is that rule that a Torrens title is evidence of indefeasible title to property in favor of the person in whose name the title appears. It is conclusive evidence with respect to the ownership of the land described therein. It is also settled that the titleholder is entitled to all the attributes of ownership of the property, including possession. Thus, the person who has a Torrens title over a land is entitled to possession thereof.[17]

WE are not persuaded by petitioners' argument that as builders in good faith of the residential house erected on the contested lot, they are entitled to reimbursement under Article 448 of the Civil Code.

Article 448 of the Civil Code provides that "the owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity x x x". In the case of *Spouses Ismael and Teresita Macasaet vs. Spouses Vicente and Rosario Macasaet*,[18] the Supreme Court pronounced that this provision covers only cases in which the builders, sowers or planters are themselves the owners of the land or, at least, have a claim of title thereto. It does not apply when the interest is merely that of a holder, such as a mere tenant, agent or usufructuary. Good faith is identified by the belief that the land is owned or that by some title one has the right to build, plant, or sow thereon. Here, WE hold that petitioners are not builders in good faith. Considering that they occupy the subject lot by mere tolerance, they are aware that their occupation of the same may be terminated by respondent any time. They knew who the owner of the lot is when they erected a house thereon. They were aware that they could not dwell thereat for as long as they wish because the land on which the same was constructed belongs to another.

Jurisprudence provides that one whose stay is merely tolerated becomes a deforciant occupant the moment he is required to leave. He is bound by his implied promise, in the absence of a contract, that he will vacate upon demand.[19] As correctly explained by the trial court in the challenged Decision, viz:

"x x x the defendants (petitioners herein) were allowed to stay in the subject premises for free with the implied understanding that should the plaintiff (respondent herein) needs the same, defendants will vacate the premises. The possession of the defendants was by mere tolerance. Defendants cannot now deny the title or right of the plaintiff when from the start they knew that their possession was merely tolerated and that they will leave the premises when plaintiff already needs the premises."

WE are not equally convinced with petitioners' assertion that the demand letter sent by respondent's counsel dated

July 4, 2007 was not sent to and received by them because it was mailed to respondent's address.

As can be gleaned from the record, the LBC Receipt No. 2711978[20] was sent to petitioner Daniel Mariano at “No. 25, Industria Extn. St., Kapasigan, Pasig City”. It bears noting that the said address is the exact location of the disputed property which is being occupied by petitioners. WE cannot give credence to petitioners' denial that they did not receive the said demand letter in the absence of evidence to prove the same. The presumption that the ordinary course of business has been followed[21] cannot be overthrown by the bare, uncorroborated and self-serving assertion of petitioners that they did not receive the said demand letter. This presumption operates against an adversary who has not introduced proof to rebut it. The effect of a legal presumption upon a burden of proof is to create the necessity of presenting evidence to meet the legal presumption or the prima facie case created thereby, and which, if no proof to the contrary is presented and offered, will prevail.[22] Petitioners clearly failed to discharge the burden in this case.

Finally, WE deny petitioners' insistence that the trial court erred when it directed them to pay respondent the amount of P9,000.00 as monthly rent or reasonable compensation for petitioners' use and occupation of the subject lot and to pay respondent the amount of P10,000.00 as attorney's fees and the costs of suit.

Section 17, Rule 70 of the Revised Rules of Court states:

“SEC. 17. Judgment. — If after trial the court finds that the allegations of the complaint are true, it shall render judgment in favor of the plaintiff for the restitution of the premises, the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, attorney's fees and costs. If it finds that said allegations are not true, it shall render judgment for the defendant to recover his costs. If a counterclaim is established, the court shall render judgment for the sum found in arrears from either party and award costs as justice requires.” (Emphasis supplied)

In *Araos vs. Court of Appeals*,[23] the High Court emphasized the long-established rule that the only form of damages that may be recovered in an action for forcible entry is the fair rental value or the reasonable compensation for the use and occupation of the property, thus:

“The rule is settled that in forcible entry or unlawful detainer cases, the only damage that can be recovered is the fair rental value or the reasonable compensation for the use and occupation of the leased property. The reason for this is that in such cases, the only issue raised in ejectment cases is that of rightful possession; hence, the damages which could be recovered are those which the plaintiff could have sustained as a mere possessor, or those caused by the loss of the use and occupation of the property, and not the damages which he may have suffered but which have no direct relation to his loss of material possession.”

To OUR mind, the award of the amount of P9,000.00 per month as rent or reasonable compensation for the use and occupation of the contested lot, is equitable. Petitioners failed to present any convincing argument for US to modify the same. The facts of the case duly warrant payment by petitioners to respondent of actual damages for depriving the latter of the beneficial use and possession of the property in dispute. As succinctly explained by the lower court in the assailed Decision, thus:

“This Court shall take judicial notice that Barangay Kapasigan is in the center of Pasig City and that Industria Extension/Blumentritt Street is within the residential zone of Pasig City. Notably, the plaintiff (respondent herein) did not demand or collect any rental from the time the title was issued in her name in 1992 up to the time that she sent the notice to vacate in 2007. As a matter of justice and equity then, it is just proper to grant unto plaintiff the monthly reasonable rental or compensation.”

WE also sustain the RTC's grant of attorney's fees in favor of respondent who was constrained to litigate to protect her interest due to the unwarranted refusal of petitioners to vacate and surrender possession of the lot in

question.[24] There is no doubt that it is within the trial court's competence and jurisdiction to grant attorney's fees and costs in an ejectment case in accordance with the above-cited provision.

All told, this Court agrees with the MeTC's conclusion, as affirmed by the RTC, that respondent is entitled to the material possession of the subject property. WE find no error in the factual findings of the RTC which are in accord with the law and prevailing jurisprudence.

WHEREFORE, in the light of all the foregoing, the instant petition is DENIED. The assailed Decision and Order of Branch 154 of the RTC of Pasig City dated April 22, 2013 and December 3, 2013, respectively, are hereby AFFIRMED.

SO ORDERED.

Abdulwahid H. S., Chairperson and Inting S. B., JJ., concur.

[1] Rollo at 14-21.

[2] Rollo at 22-23.

[3] Rollo at 65-70.

[4] Rollo at 6-8. Petition.

[5] Rollo at 8-9. Petition.

[6] Rollo at 9-10. Petition.

[7] Rollo at 118-119. Petition.

[8] Rollo at 121. Petition.

[9] Rollo at 119-120. Petition.

[10] Rollo at 121-125. Petition.

[11] See *Rosa Delos Reyes vs. Spouses Francisco and Arwenia Odonos et al.*, G.R. No. 178096, March 23, 2011.

[12] *Dolores Macaslang vs. Renato and Melba Zamora*, G.R. No. 156375, May 30, 2011.

[13] Rollo at 4. Petition.

[14] Rollo at 39-40.

[15] *Ruben Corpuz vs. Spouses Hilarion and Justa Agustin*, G.R. No. 183822, January 18, 2012.

[16] Rollo at 36.

[17] *Asuncion Urieta Vda. De Aguilar vs. Spouse Ederlina and Raul Alfaro*, G.R. No. 164402, July 5, 2010.

[18] See G.R. Nos. 154391-92, September 30, 2004.

[19] *Alfredo Del Rosario vs. Spouses Jose and Concordia Manuel*, G.R. No. 153652, January 16, 2004.

[20] Rollo at 43.

[21] Section 2 (q), Rule 131, 1997 Rules of Court.

[22] Spouses Pedro and Paz Surtida vs. Rural Bank of Malinao (Albay), Inc., G.R. No. 170563, December 20, 2006.

[23] G.R. No. 107057. June 2, 1994, 232 SCRA 770.

[24] Antioquia Development Corporation et al. vs. Benjamin Rabacal et al., G.R. No. 148843, September 5, 2012.

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