HEIRS OF THE LATE SPOUSES PEDRO MONTEROSO AND EMILIA LINOGON, NAMELY: YOLANDA M. SERRADOR; OFELIA M. DELICA INCLUDING HUSBAND ALBERTO DELICA; AND BIERNE M. ESMERO; PETITIONERS, ...

Ponente: AZCARRAGA-JACOB, J.

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AZCARRAGA-JACOB, J.:

Before this Court is a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure assailing the 23 May 2011 Decision[1] of Branch 59, Regional Trial Court (RTC), San Carlos City, which reversed the Decision[2] of the Municipal Trial Court in Cities (MTCC), Escalante City, Negros Occidental dated 21 September 2010 .

THE PARTIES

Petitioners Yolanda Serrador, Ofelia Delica and Bierne Esmero are the heirs of the late spouses Pedro Monteroso and Emilia Linogon (spouses Monteroso). Specifically, petitioners Yolanda Serrador and Ofelia Delica are the spouses' children while petitioner Bierne Esmero is the spouses' grandchild, representing his mother Virginia Esmero who died on 5 April 2002.

Respondents are the heirs of the late Antonio Amante who was one of the children of Felizardo Amante. Felizardo's father, Elino Amante was the owner of a big tract of land from where subject property originated.

THE ANTECEDENTS

On 29 April 2008, a complaint[3] for forcible entry with damages was filed by the estate of the late spouses Pedro Monteroso and Emilia Linogon, represented by herein petitioners. Subject of said complaint was a parcel of land which was a portion of Lot 1141, measuring about 3 hectares and located in Barangay Washington, Escalante City, Negros Occidental. The complaint alleged, among others, that petitioners are the legal heirs of spouses Monteroso who in 1947, bought Lots 1141 and 1142 from Ruben, Antonio and Benjamin, all surnamed Amante, for the amount of One Thousand Pesos (P1,000.00). Spouses Monteroso paid P601.50 as partial payment with an undertaking on the part of Ruben, Antonio and Benjamin to execute the final document of sale after the land was redeemed from the mortgagee Elesio Dejoras. In 1975, a formal Deed of Absolute Sale for the amount of P7,000.00 was executed by Ruben and Eleazar Amante in favor of spouses Monteroso covering a portion of Lot 1141 which pertains to them, excluding the portion pertaining to Antonio Amante. Said portion of Lot 1141 sold by Ruben and Eleazar to the spouses Monteroso was later designated as Lot 1141-G after partition was made among the heirs of Felizardo Amante. Since then, the spouses Monteroso were in physical and material possession of said Lot 1141-G. After the death of the spouses, possession over the property was continued by petitioners. Such possession lasted until 17 March 2008, when respondents, employing force, threat, intimidation, strategy and stealth, entered the premises, and dispossessed them of the property. Conciliation proceedings before the barangay proved futile, thus, petitioners filed the complaint for forcible entry.

In their Answer, respondents claimed that they are the children of the late Antonio Amante, one of the four (4) children of Felizardo Amante. Felizardo, in turn, was one of the children of Elino Amante who was the registered owner of a parcel of land measuring 36 hectares and covered by OCT 30388. Felizardos' share in Elino's property consisted of 6.5 hectares which was designated as Lot 1141 for purposes of real estate taxation. Respondents further claimed that even assuming that a portion of Lot 1141 was sold to the spouses Monteroso by their predecessors-in-interest Ruben and Eleazar Amante, petitoners had no right over the subject proerty because the same was already sold to spouses Paulino Pasaylo and Monica Legaspina on 24 March 1969. Thus, respondents argued in their Answer that the case should be dismissed since petitioners no longer had any cause of action against them.[4]

On 21 September 2010, the MTCC rendered a Decision in favor of petitioners. The dispositive portion of the Decision provides:

> WHEREFORE, judgment is hereby rendered in favor of plaintiffs [petitioners herein] and against the defendants [respondents herein]:
>
> 1. Ordering the defendants and all persons claiming right under them to vacate the premises of Lot No. 1141-G and remove all structures they have erected or made thereon;
>
> 2. Ordering defendants solidarily to pay plaintiffs the amount of P2,000.00 monthly, the amount which the court finds reasonable compensation for the use and occupation of the subject land beginning March 2008 until they have vacated the subject premises and plaintiffs are restored possession over the same;
>
> 3. Ordering the defendants solidarily to pay the plaintiffs the amount of P20,000.00 for attorney's fees;
>
> 4. Ordering the defendants solidarily to pay the costs.
>
> SO ORDERED.[5]

On appeal to the RTC, the MTCC ruling was reversed and the case was dismissed on the ground of petitioners' lack of legal capacity to sue. The RTC held:

> From the allegations of the complaint, it is undisputed that the subject of this case is Lot No. 1141 with an area of 6.5 hectares; that later the subject lot was subdivided into two sublots namely: Lot 1141-F and Lot 1141-G containing an area of 3.25 hectares each; that Lot 1141-G was bought by Pedro Monteroso in 1957 while ownership of Lot 1141-F remained with the Amantes, including Antonio Amante, the predecessor-in-interest of herein defendants-appellants; that in 1975, Pedro Monteroso took possession of Lot 1141-G; that there was a Deed of Sale xxx between Sps. Pedro Monteroso and Emilia Linogon as vendors and Sps. Pailino Pasaylo and Monica Legaspina as vendees involving a portion of Lot 1141 consisting of 3.5 hectares.
>
> Subsequent to the said sale, it appears that Lot 1141 was subdivided into two sublots, 1141-G and 1141-F with Spouses Monteroso taking possession of Lot No. 1141-F. Since it is already admitted by the plaintiff-appellee that it only owns and possesses sublot 1141-G, then it follows to reason that this is the same lot which was sold by the Monterosos to the Pasaylos even though the Deed of Sale refers to an undivided portion of Lot No. 1141. Moreover, it would appear that when the Sps. Monteroso took possession of Lot No. 1141-G in 1975, they were no longer the owners of the said lot having sold the same to the Sps. Pasaylo as early as 1969.[6]

Petitioners filed a motion for reconsideration[7] of the RTC Decision but it was denied by the RTC in its Order[8] dated 22 August 2011.

Petitioners then filed the instant petition for review which assigns the following issues for the Court's consideration:

> 3.1 Whether or not the RTC's reversing the trial court's decision and dismissing the case because accordingly

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> the petitioners have no legal standing in court being allegedly not the real party-in-interest in the case, [is] correct;
>
> 3.2 Whether or not the trial court's decision [is] correct.[9]

THE COURT'S RULING

It is a basic rule in forcible entry cases that the inquiry is centered on who has prior physical or material possession over the property. What is essential is that the plaintiff must prove that he was in prior physical possession of the premises until he was deprived thereof by the defendant. Any of the parties who can prove prior possession de facto may recover the possession even from the owner himself, since such cases proceed independently of any claim of ownership.[10] The Supreme Court has elucidated:

> The only question that the courts must resolve in ejectment proceedings is - who is entitled to the physical possession of the premises, that is, to the possession de facto and not to the possession de jure. It does not even matter if a party's title to the property is questionable, or when both parties intruded into public land and their applications to own the land have yet to be approved by the proper government agency. Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession.
>
> Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to settle in an ejectment suit is the right to physical possession.[11] (Emphasis supplied.)

The RTC ordered the dismissal of the case on the ground that petitioners had no legal capacity to sue. According to the RTC, petitioners did not have the legal standing to file the case because no right was ever transmitted to them by their predecessors-in-interest who sold the property to the spouses Pasaylo in 1969.

However, in so ruling, the RTC centered on ownership without taking into consideration the basic rule above-cited that prior physical or material possession is the primordial issue in forcible entry cases.

As correctly found by the MTCC, petitioners alleged and proved that they were in prior physical possession of the property in litigation until respondents deprived them of it. The following admissions made during the preliminary conference of the case are relevant:

> 1. That the subject lot in this case is 1141-G;
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> 2. That the late Pedro Monteroso and his heirs have been in possession of Lot 1141-G;
>
> 3. That Lot 1141-G was bought by Pedro Monteroso in 1975;
>
> 4. That in 1990, personnel of the Provincial Assessor's Office conducted a tax mapping survey of Lot 1141-G which was under the actual possession of Pedro Monteroso;
>
> 5. That Assessor's Office showed that Lot 1141-G is the property of Pedro Monteroso.[12]

These admissions during the preliminary conference are binding on the parties and they are worthy of credit.

Respondents assert that the parcel of land they are occupying is Lot 1141-F which they inherited from their father Antonio Amante. But the records of this case are bereft of evidence to support such allegation. While it is not disputed that Lot 1141 was later subdivided into Lot 1141-F and Lot 1141-G, no proof was presented by

respondents to show that it was actually Lot 1141-F which they are occupying.

Section 16, Rule 70 of the 1997 Rules of Civil Procedure expressly provides:

> SEC. 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

It is clear from the provision above-quoted that ownership of the property can only be determined by the trial court where the question of possession could not be resolved without deciding the issue of ownership. Jurisprudence instructs:

> We stress that the issue of ownership in ejectment cases is to be resolved only when it is intimately intertwined with the issue of possession, to such an extent that the question of who had prior possession cannot be determined without ruling on the question of who the owner of the land is. No such intertwinement has been shown in the case before us. Since respondents' claim of ownership is not being made in order to prove prior possession, the ejectment court cannot intrude or dwell upon the issue of ownership.
>
> Notwithstanding the actual condition of the title to the property, a person in possession cannot be ejected by force, violence or terror -- not even by the owners. If such illegal manner of ejectment is employed, as it was in the present case, the party who proves prior possession -- in this case, petitioners -- can recover possession even from the owners themselves.
>
> xxx xxx xxx.
>
> Verily, even if petitioners were mere usurpers of the land owned by respondents, still they are entitled to remain on it until they are lawfully ejected therefrom. Under appropriate circumstances, respondents may file, other than an ejectment suit, an accion publiciana -- a plenary action intended to recover the better right to possess; or an accion reivindicatoria -- an action to recover ownership of real property.[13] (Emphasis supplied.)

It is worthy to note that respondents' main line of defense is the sale of Lot 1141-G allegedly made by spouses Monteroso to the spouses Pasaylo in 1969. Instead of squarely addressing the issue of possession and presenting evidence showing that they are in actual possession of Lot 1141-F which is different from Lot 1141-G claimed by petitioners, respondents merely narrated how they acquired ownership of Lot 1141-F and presented the 1969 deed of sale.

Thus, even if respondents succeeded in proving that they are the owners of Lot 1141-F and somebody else owns Lot 1141-G, the fact remains that they have not proved that they physically possessed Lot 1141-G which is subject of the present case.

With the foregoing disquisition, the RTC clearly committed an error in dismissing the forcible entry case on the ground that petitioners' predecessors-in-interest are no longer the owners thereof.

With respect to the award of Two Thousand Pesos (P2,000.00) as monthly rentals, it is a settled rule that the recoverable damages in forcible entry and detainer cases refer to "rents" or "the reasonable compensation for the use and occupation of the premises" or "fair rental value of the property."[14] However, the MTCC did not mention its basis for the award. Jurisprudence dictates that reasonable amount of rent could be determined not by mere judicial notice, but by supporting evidence.[15]

While it is presumed that the MTCC relied on its own appreciation of land values in the area, still, evidence is required for a court to determine the proper rental value. Since no evidence exists in the records on the matter pertaining to the amount of reasonable rent, this Court can not affirm such award made by the MTCC.

As for the award of of attorney's fees and litigation expenses, the Court finds that petitioners are not entitled thereto. Section 17 of Rule 70 allows the award of attorney’s fees in ejectment cases, but the same is still subject to the rule that the discretion of the court to award attorney’s fees and litigation expenses under Article 2208 of the Civil Code demands factual, legal and equitable justification. In all events, the court must state the reason for the award of attorney’s fees.[16]

It is apparent from the MTCC ruling quoted hereinabove that no reason was stated to justify the award of attorney’s fees. Moreover, none of the circumstances justifying an award of attorney’s fees enumerated under Art. 2208 of the Civil Code are present, or have been proven in this case.[17]

WHEREFORE, the Petition for Review is hereby GRANTED.

Accordingly, the Decision dated 23 May 2011 of RTC-Branch 59, San Carlos City, in Special Civil Case No. RTC-1092 is REVERSED. The Decision of the MTCC, Escalante City, Negros Occidental dated 21 September 2010 is REINSTATED, with the modification that the award of rentals and attorney's fees are ordered DELETED.

SO ORDERED.

Hernando, and Quijano-Padilla, JJ., concur.

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[1] Rollo, pp. 38-41.

[2] Ibid., pp. 43-47.

[3] Ibid., pp. 48-54.

[4] Ibid., pp. 55-68.

[5] Ibid., pp. 46-47.

[6] Ibid., p. 40.

[7] Ibid., pp. 79-84.

[8] Ibid., p.42.

[9] Ibid., p.30.

[10] Dy v. Mandy Commodities Co., Inc., G.R. No. 171842, 22 July 2009, citing Bañes v. Lutheran Church in the Philippines, G.R. No. 142308, 15 November 2005.

[11] Pajuyo v. CA, G.R No. 146364, 3 June 2004.

[12] Ibid., pp. 44-45.

[13] Heirs of Pedro Laurora v. Sterling Technopark III, G.R. No. 146815, 9 April 2003.

[14] CGR Corporation vs. Treyes, Jr., G.R. NO. 170916, 27 April 2007.

[15] Herrera v. Bollos, G.R. No. 138258, 10 January 2002.

[16] Philipp Brothers Oceanic v. Court of Appeals, G.R. No. 105416-17, 111863, 143715, 25 June 2003.

[17] In the absence of stipulation, attorney’s fees and expenses of litigation, other than judicial costs cannot be recovered, except:

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(1) When exemplary damages are awarded; (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest; (3) In criminal cases of malicious prosecution against the plaintiff; (4) In case of a clearly unfounded civil action or proceeding against the plaintiff; (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim; (6) In actions for legal support; (7) In actions for the recovery of wages of household helpers, laborers and skilled workers; (8) In actions for indemnity under workmen's compensation and employer's liability laws; (9) In a separate civil action to recover civil liability arising from a crime; (10) When at least double judicial costs are awarded; (11) In any other case where the court deems it just and equitable that attorney’s fees and expenses of litigation should be recovered.

In all cases, the attorney’s fees and expenses of litigation must be reasonable.

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