

PAGONG REALTY CORPORATION, PETITIONER, VS. DALMACIO REYES (NILA REYES), RESPONDENTS.

Ponente: LOPEZ, J.

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LOPEZ, J.:

This Petition for Review[1] assails the Decision[2] dated June 4, 2012 of the Regional Trial Court which set aside the ruling of the Municipal Trial Court in a forcible entry case.

On June 4, 2008, Pagong Realty Corporation (petitioner) filed a Complaint for forcible entry before the MTC against several occupants of its property including Dalmacio Reyes who was later substituted[3] by his wife Nila Reyes (respondent) after his death. It then filed an Amended Complaint[4] on July 9, 2008 against respondent. In its amended complaint, petitioner alleged among other things that: (1) it is the owner of a parcel of land located at 9 de Pebrero Street and corner R. Pascual Street and C. Fernando Street (also known as F.T. Evangelista Street), Barangay Pleasant Hills, Mandaluyong City covered by TCT No. 62174; (2) it has been in legal and physical possession of the land even prior to the issuance of the title in its name on May 21, 1987; (3) sometime in December 2007, it found out through its employees that private respondent entered into, took possession of, and built a structure without its consent; and (4) private respondent refused to vacate the land despite demands made by petitioner.

Respondent, in her Answer,[5] claimed that she has been in possession of the property even before May 21, 1987. She asserted that the transfer certificate of title cannot be used as evidence because it does not indicate that petitioner was in actual possession of the land but merely served as proof of ownership.

In its Joint Decision[6] dated May 30, 2011, the MTC ordered private respondent and other defendants to vacate the disputed land, thus:

‘IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered in favor of the plaintiff and against the defendants, as follows:

1. Ordering all the defendants in the above-entitled cases and/or all other persons claiming rights under them to vacate the portion of the property subject of these cases covered by TCT No. 62174 registered in the name of Pagong Realty Corporation of the Registry of Deeds for the Province of Rizal, Metro Manila District II, situated at corner 9 de Pebrero St. and C. Fernando St. (also known as F.T. Evangelista Street) Barangay Pleasant Hills, Mandaluyong City and to restore possession thereof to herein plaintiff.
2. Ordering the defendant/s in each case to pay attorney’s fees in the amount of Ten thousand (Php10,000.00) each as and by way of attorney’s fees.
3. Cost of Suit

Respondent appealed to the RTC which reversed the findings of the MTC for lack of jurisdiction. The RTC found that petitioner failed to satisfy the two jurisdictional requirements to establish a valid cause for forcible entry.[7] It ratiocinated that:

From a careful reading of the allegations in the Amended Complaint, the Court is convinced that the plaintiff-appellee did not meet and satisfy the two jurisdictional requirements mentioned-above (sic) in order to establish a valid cause of action for forcible entry.

xxx

As to the first requirement of prior possession, plaintiff-appellee did not, as noticed by this Court, specifically allege how it came into possession of the subject property prior to the possession of the same by the defendant-appellant. If indeed it has possession thereof prior to that of defendant-appellant how plaintiff-appellee was able to discover the alleged illegal occupation of the subject lot only in December 2007 was not explained. If it is true, as plaintiff-appellee is claiming, that it has prior possession of the subject lot, it should not have taken long for it to discover the alleged defendant-appellant's occupation of the same. Such claim appears contrary to human experience that one claims to possess a thing and one does not even know that someone has entered or even built structures therein.

Likewise, the presentation of TCT No. 62174 covering the subject lot including tax declaration is not admissible as to the issue of prior possession. Such are appropriate to establish issue of ownership but not to establish prior physical possession which is the basic issue in a forcible entry (ejection) case.

Anent the second requirement, the Court noted from the perusal of the Amended Complaint the absence of factual description of how plaintiff-appellee was deprived of possession de facto of the subject lot. It merely alleged that it is the owner of the lot and that defendant-appellant took possession of the same through strategy, deceit, stealth and fraud and stealthy (sic) built a structure thereon. To the mind of the Court, such allegations do not present the factual circumstances required by law that would describe how the owner was deprived of his possession of the subject lot but what is clear is that those allegations of the plaintiff-appellee in its Amended Complaint are mere conclusions of law and do not present or describe the factual circumstance of dispossession.

Hence, the present petition for review based on the following grounds:

- THE REGIONAL TRIAL COURT ERRED IN REVERSING AND SETTING ASIDE THE DECISION OF THE METROPOLITAN TRIAL COURT, BRANCH 60, MANDALUYONG CITY ON THE GROUND THAT PETITIONER'S ALLEGATIONS IN THE AMENDED COMPLAINT DO NOT SATISFY THE JURISDICTIONAL REQUIREMENTS TO CONSTITUTE A VALID CAUSE OF ACTION FOR FORCIBLE ENTRY.
- THE REGIONAL TRIAL COURT ERRED IN AWARDING ATTORNEY'S FEES AND COSTS OF SUIT IN FAVOR OF RESPONDENT.[8]

The petition lacks merit.

A complaint for forcible entry case must allege and prove that the complainant had prior physical possession of the property before he/she was unlawfully deprived of it by force, intimidation, threat, strategy or stealth of the defendants.[9] Possession, in the eyes of the law, always includes the idea of occupation and intent to possess (animus possidendi).[10] It is not necessary that the person in possession should himself be the occupant because occupancy can be held by another in his name.[11] Actual possession consists in the manifestation of acts of dominion over the property by the person in possession, or through another who recognizes his rights as owner.[12]

Here, petitioner did not sufficiently prove that it had actual possession of the property. The transfer certificate of title and tax declarations which were presented by petitioner are not enough proof of possession. These documents are not positive and persuasive indications of petitioner's intent to possess. The Supreme Court consistently emphasized that a tax declaration is not conclusive proof of possession.[13] It is merely a manifestation of

possession in the concept of owner since no one would be paying taxes for a property that is not in his actual or physical possession.[14] Also, while a certificate of title may bear weight and is material in contests over ownership, it does not per se show that petitioner is in actual possession of the disputed land.[15] True, ownership carries with it the right of possession. However, the possession in a forcible entry case merely refers to physical possession and not the legal possession contemplated in civil law.[16] As elucidated in *De Grano v. Lacaba*[17]:

It bears emphasizing that the word "possession," as used in forcible entry and unlawful detainer cases, means nothing more than physical possession, not legal possession in the sense contemplated in civil law. When the law speaks of possession, the reference is to prior physical possession or possession de facto, as contra-distinguished from possession de jure. Only prior physical possession, not title, is the issue. Issues as to the right of possession or ownership are not involved in the action; evidence thereon is not admissible, except only for the purpose of determining the issue of possession.

Moreover, the complaint fails to allege material facts for forcible entry such as how entry was made or how and when dispossession started. While petitioner claims that respondent entered the disputed land through "secret, sly, or clandestine acts"[18] to avoid discovery, the complaint failed to mention the specific acts how entry by which respondent was effected or how and when dispossession took place.[19] These are fatal defects warranting dismissal of the complaint for lack of jurisdiction.[20]

In any event, petitioner may file an *accion publiciana*, which is a plenary action intended to recover the better right to possess.[21] We stress that any pronouncement in this case as to the ownership of the land is merely provisional, and would not bar or prejudice an action between the same parties involving recovery of possession to the disputed land.[22]

FOR THE STATED REASONS, the Court DENIES the petition and AFFIRMS the decision of the Regional Trial Court.

SO ORDERED.

Reyes, JR., J.C., (Chairperson) and Inting, JJ., concur.

[1] Rollo, pp. 3-30.

[2] *Id.*, pp. 29-33.

[3] *Id.*, p. 59.

[4] *Id.*, pp. 45-50.

[5] *Id.*, pp. 56-58.

[6] *Id.*, pp. 22-28.

[7] *Id.*, pp. 29-33.

[8] *Id.*, p.9.

[9] See *Cansino v. Court of Appeals*, G.R. No. 125799, August 21, 2003 citing *Go, Jr. v. Court of Appeals*, 362 SCRA 755 (2001). See also *Benitez vs. Court of Appeals*, 266 SCRA 242,

[10] Tolentino, Arturo M., *Commentaries and Jurisprudence on the Civil Code of the Philippines*, Volume II, 1992 Edition, p. 239. "The *animus possidendi* may be contradicted and rebutted by evidence which tends to prove that the person under whose power or control the thing in question appears to be, does not in fact exercise the

power or control and does not intend to do so.”

[11] See *Yu v. Pacleb*, G.R. No. 130316, January 24, 2007.

[12] See *Remington Industrial Sales Corp. v. Chinese YMCA of the Philippines*, G.R. No. 171858, January 22, 2007 citing *Republic of the Philippines v. David*, G.R. No. 155634, August 16, 2004, 436 SCRA 577.

[13] See *Grano v. Lacaba*, G.R. No. 158877, June 16, 2009 citing *Estrella v. Robles, Jr.*, G.R. No. 171029, November 22, 2007, 538 SCRA 60, 74.

[14] *Id.*, citing *Ganila v. Court of Appeals*, G.R. No. 150755, June 28, 2005, 461 SCRA 435.

[15] See *Nenita Quality Foods Corporation v. Galabo, et. al.*, G.R. No. 174191, January 30, 2013.

[16] *Ibid.*

[17] *Supra*, Note 13, citing *Tirona v. Alejo*, 419 Phil. 285, 298 (2001); *Gonzaga v. Court of Appeals*, G.R. No. 130841, February 26, 2008, 546 SCRA 532, 540; *Heirs of Pedro Laurora v. Sterling Technopark III*, G.R. No. 146815, April 9, 2003, 401 SCRA 181, 184; *Habagat Grill v. DMC-Urban Property Developer, Inc.*, G.R. No. 155110, March 31, 2005, 454 SCRA 653, 670.

[18] *Rollo*, p. 46.

[19] See *Ong v. Parel*, G.R. No. 143173, March 28, 2001.

[20] See *Spouses Ong v. Parel*, G.R. No. 143173, March 28, 2001, citing *Sarmiento v. Court of Appeals*, 250 SCRA 110 citing *Sumulong vs. CA*, 232 SCRA 372 citing 3 *Manuel V. Moran*, *Comments on the Rules of Court* 312 (1980 ed.).

[21] See *Carbonilla v. Abiera*. G.R. No. 177637, July 26, 2010.

[22] *Ibid.*

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