

SPOUSES RUBEN AND JIMENA CALANOC, AMALIA “AGA” CALANOC AND CARIDAD GURAN, PETITIONERS, VS. LILIBETH AMPONIN, RESPONDENT.

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GALAPATE-LAGUILLES, J:

This Petition for Review[3] seeks to set aside the following Judgment and Order rendered by the Regional Trial Court of Olongapo City, Branch 75, in Civil Case No. 153-0-09:

(1) Judgment[4] dated March 25, 2010, affirming the decision dated August 13, 2009 of the Municipal Trial Court in Cities, Branch 4, Olongapo City in an action for Unlawful Detainer and Damages, docketed as Civil Case No. 7043; and

(2) Order[5] dated May 18, 2010, denying the Motion for Reconsideration.

The facts follow.

The present controversy involves the right to material possession over Lot No. 4677-B located in Brgy. Sta. Rita, Olongapo City, with an area of 264 square meters, as well as the house constructed therein.

The subject property was a portion of Lot No. 4677 that was originally claimed and possessed by Esperidion Calanoc, predecessor-in-interest of siblings Ruben and Amalia Calanoc. Upon the death of Esperidion on May 10, 1974, his heirs, namely: Selvestre, Ligaya, Leticia, Maria Luisa, Ruben, Amalia, Bernardo, all surnamed Calanoc, and their mother Catalina Legaspi Vda. Calanoc, executed a notarized Joint Affidavit[6] dated May 29, 1974, conveying their claim of ownership and right of possession over the said property to Mrs. Rufina Alcantara Castro, the mother of Lilibeth Amponin, private respondent herein. The said notarized document reads in part:

xxx

That before the death of our father, he received from Mrs. Rufina Alcantara Castro a sizeable amount that was spend (sic) from (sic) his medical care prior to his death and that we are aware of the fact;

That we are aware that it was the intention of our father to transfer unto said Mrs. Rufina Alcantara Castro the residential land describing (sic) above and the house situated therein;

That in obedience to the wishes of our late father and spouse respectively (sic) in favor of Mrs. Rufina

Alcantara Castro.[7]

xxx

Despite the transfer, however, the Calanocs remained in possession of the said property.

When Rufina died intestate on October 10, 1991, her estate was inherited by her heirs, her husband Dionicio S. Castro and her children Fernando A. Castro, Renato A. Castro, Rodeo A. Castro, Lucita C. Holland, Jose A. Castro, Reynaldo A. Castro, Fresnedie A. Castro, Julita Castro Batol and private respondent Lilibeth Castro Amponin. By virtue of the notarized document denominated as Extra Judicial Settlement of the Estate of Rufina A. Castro⁸ dated July 6, 2004, Lilibeth's co-heirs waived in her favor their rights and interest over Lot 4677-B. Thereafter, Lilibeth applied for title over the said lot and Katibayan ng Orihinal na Titulo Blg. P-13830^[9] was later issued in her name on April 26, 2007.

Meanwhile, on September 19, 2005, spouses Ruben and Jimena Calanoc, herein petitioners, transferred 100-square meter portion of Lot 4677-B in favor of Caridad G. Guban without the knowledge and consent of Lilibeth.^[10]

On June 21, 2007, Lilibeth sent a demand letter,^[11] through registered mail, to spouses Calanoc, Amalia and Caridad directing them to vacate the property within fifteen (15) days from notice, otherwise, a court action shall be filed against them. The demand was unheeded. Thus, on October 4, 2007, Lilibeth, through her Attorney-in-fact Adorable Amponin,^[12] filed before the Municipal Trial Court in Cities (Branch 4) of Olongapo City a Complaint for Unlawful Detainer and Damages^[13] against spouses Calanoc, Amalia and Caridad, contending that she is the registered owner of Lot 4677-B and that she paid real property tax thereon as shown in the Declaration of Real Property Value^[14]. Lilibeth further alleged that she consented and tolerated the Calanocs' continued possession of the property with the condition that they shall vacate the same upon demand, but the Calanocs abused her tolerance when they sold a portion of the subject lot to Caridad without her knowledge and consent. Further, according to her, repeated demands to vacate were sent to the Calanocs and Caridad, the latest of which was the letter dated June 20, 2007,^[15] but despite so, they remained in the property against her will.

In their Answer,^[16] the Calanocs and Caridad denied the material allegations in the Complaint, Lilibeth's claim of ownership over the subject property in particular. The Calanocs averred that they had been occupying and possessing the property in the concept of owners and against the whole world since 1948, or for more than 50 years, as shown in the Miscellaneous Sales Application filed by Ruben, Tax Declaration and tax receipts as well as the Barangay Certification attesting their occupation of the said property. They also assailed the validity of Lilibeth's original certificate of title over the subject property because they had reasons to believe that it was obtained through fraud, deceit and misrepresentation. Furthermore, the defendants contended that the Complaint was premature as it lacked the required barangay conciliation proceeding; and that it was procedurally infirm because Lilibeth did not join her husband as a party-plaintiff. In their position paper, the defendants likewise argued that the litigated property was not identical to the property they are actually occupying.^[17]

On August 13, 2009, the MTCC rendered a Judgment^[18] holding that as between the defendants and Lilibeth, the latter had successfully established her right of material possession over the property as a consequence of her rightful ownership thereof. According to the MTCC, defendants' documentary evidence, e.g. tax declaration and receipts, and claim of acquisitive prescription, did not overcome the indefeasibility of Lilibeth's title. It likewise ruled that the litigated property and the parcel of land occupied by the defendants were identical, viz:

Defendant Ruben Calanoc, has also applied for their Miscellaneous Sales Application of the disputed property, the same, however, had been rejected by the Community Environment and Natural Resources Office (CENRO) per its Order dated February 23, 2006 on the ground that a similar property had already been the subject of plaintiff's application.

So, contrary to the contention of the defendants, Lot 4677-B which had been conveyed to the plaintiff by the predecessor-in-interest of the defendants Calanoc is the same property which is being occupied by the latter and also the subject of defendant's application. It is likewise significant to note that even in the Tax Declaration of the defendants Calanoc, there appears to be an annotation to the effect that the property subject thereof is also declared in [the] name of Rufina Alcantara Castro.[19]

The fallo of the said Judgment reads:

FOR ALL THE FOREGOING, the Court finds that the plaintiff has satisfactorily established her cause of action against the defendants, hence, said defendants and all persons claiming rights over the subject property are hereby ordered:

1. To vacate the subject premises in question and to remove whatever improvements they may have erected thereon;
2. To pay plaintiff:
 - a. Attorney's fees in the amount of Twenty Thousand (P20,000.00) [Pesos]; and
 - b. Cost[s] of the suit in the sum of Three Thousand One Hundred Fifteen (P3,115.00) Pesos.

SO ORDERED.[20]

Aggrieved, the defendants appealed to the Regional Trial Court of Olongapo City, reiterating the arguments and issues already passed upon by the MTCC. Accordingly, the RTC rendered the assailed Judgment dated March 25, 2010, affirming in toto the decision of the MTCC. Defendants sought reconsideration from the adverse decision of the court a quo but the same was likewise denied per Order dated May 18, 2010. Hence, this recourse under Rule 42 of the Rules of Court which raises the following errors:

- I. The Honorable MTCC and the Honorable RTC erred in not resolving the issue that the property being claimed by respondent is NOT the same property owned by petitioners;[21]
- II. The Honorable MTCC and Honorable RTC gravely erred in its non-appreciation of the fact that plaintiff or any member of her family was never at any period in possession/occupation of petitioners' property;[22]

III. The Honorable MTCC and Honorable RTC gravely erred in not resolving that non-possession of respondent and lack of demand to vacate the property served on all petitioners are fatal to her complaint for unlawful detainer;[23]

IV. The Honorable MTCC and Honorable RTC gravely erred in not sustaining petitioners' affirmative defense that respondent's claim has already prescribed;[24]

V. The Honorable MTCC and Honorable RTC erred in not appreciating that respondent is not entitled to an award of attorney's fees and cost of suits;[25] and

VI. Respondent's Claim in the Complaint is fatally defective for non-joinder of her husband.[26]

On October 1, 2010,[27] this Court dropped Amalia Calanoc as petitioner due to her untimely demise while her heirs showed no interest to the case. Caridad Guban was likewise dropped from the case on March 23, 2011[28] because she neither personally signed the verification and certification of non-forum shopping attached to the Petition nor authorized her daughter Zenaida Guban to sign the same on her behalf.

The Petition is bereft of merit.

The appeal proffers issues pertaining to both procedural and substantive law. As regards the alleged procedural lapses, petitioners contend that barangay conciliation proceedings is a condition precedent before the filing of the case; and that Lilibeth's husband must be included as party-plaintiff as the subject property is allegedly conjugal. We do not agree.

As a rule, barangay conciliation proceeding is considered as a condition precedent that must be complied with before an action, such as unlawful detainer, may be filed in court. However, barangay conciliation proceeding may be dispensed with as when a dispute involves parties who actually reside in barangays of different cities or municipalities, pursuant to Section 408 (f) of the Local Government Code. In this case, Lilibeth does not reside in the same barangay or city as the petitioners. In several documents on record, such as the Special Power of Attorney appointing Adorable Amponin as Attorney-in-fact, Declaration of Real Property Value, and the Extra-Judicial Settlement of the Estate of Rufina A. Castro, it was shown that Lilibeth is a resident of Tondo, Manila. On the other hand, petitioners are residents of Sta. Rita, Olongapo City. Hence, the local lupon has no jurisdiction over their dispute, and prior referral to it for conciliation is not a pre-condition to its filing in court.[29]

As to the non-inclusion of Lilibeth's husband as a party-plaintiff, the RTC correctly observed that the same was unnecessary as there was no indication that Lot 4677-B was conjugal in character.

Even assuming that the husband's inclusion is required, Section 9, Rule 3 of the Revised Rules of Civil Procedure does not warrant the dismissal of cases due to the non-joinder of parties. The non-joinder of the husband by a party plaintiff is only a formal requirement that does not affect the jurisdiction of the court.[30]

Besides, the spouses may validly exercise full power of management of a conjugal property, either singly or jointly, subject to the intervention of the court in proper cases[31]. They are not always obligated to act jointly except to dispose or encumber property belonging to the conjugal partnership which specifically requires the written consent of the other spouse, or authority of the court.[32] One spouse, like the wife in this case, can institute actions to protect the conjugal partnership, thus:

Under the Family Code, the administration of the conjugal property belongs to the husband and the wife jointly. However, unlike an act of alienation or encumbrance where the consent of both spouses is required, joint management or administration does not require that the husband and wife always act together. Each spouse may validly exercise full power of management alone, subject to the intervention of the court in proper cases as provided under Article 124 of the Family Code. It is believed that even under the provisions of the Family Code, the husband alone could have filed the petition for certiorari and prohibition to contest the writs of demolition issued against the conjugal property with the Court of Appeals without being joined by his wife[33]. (Emphasis Ours)

Be that as it may, the fundamental question posed by the parties is who between them has the right to material possession of the subject property, which is a substantive law issue. We find for the private respondent Lilibeth.

An unlawful detainer case is governed by 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.

We emphasize that the Complaint sufficiently alleged the essential jurisdictional requirements for unlawful detainer to prosper. Gleaned from the Complaint and the relief prayed for, it was clear that Lilibeth, being the registered owner, sought recovery of material or physical possession over Lot 4677-B. The Complaint also alleged that Lilibeth allowed the Calanocs to stay in the property through mere tolerance; and that when she required the Calanocs and Caridad, who derived her right from the latter, to vacate the property, they refused to do so thereby making their possession unlawful. Moreover, the filing of the Complaint on October 4, 2007 was within the prescribed period, or within one year from the last demand which was made on June 21, 2007.[34] This is contrary to the petitioners' asseveration that no demand was made by plaintiff. With the foregoing considerations, We deem the Complaint a veritable form of unlawful detainer.

We are mindful that both parties claimed ownership over the subject lot. Lilibeth asserted her ownership pursuant to her Torrens title while the spouses Calanoc claimed acquisitive prescription based on their alleged adverse, open, and continuous possession of the property for more than thirty (30) years.

In an unlawful detainer case, the sole issue for resolution is physical or material possession of the property, independent of any claim of ownership by either of the parties. The assertion of ownership either in the complaint or as affirmative defense in the answer does not alter the nature of the action, and the Municipal Trial Courts may still take cognizance of the case and make an initial determination of who between the plaintiff and the defendant is the owner and, in the process, resolve the issue of who is entitled to the possession. Notably, Section 16, Rule 70 of the Rules of Court empowers the Municipal Trial Courts to decide the question of ownership only when it is intertwined with and necessary to resolve the issue of possession.[35] But this adjudication is only provisional and does not bar or prejudice an action between the same parties involving title to the property.[36]

Here, it is unfortunate that petitioners' claim of acquisitive prescription as the basis of their ownership is not sufficient to assail the indefeasibility of Lilibeth's Torrens title. Possession, to constitute the foundation of a

prescriptive right, must be under a claim of title or it must be adverse or in the concept of owner.[37] As held in *Lubos v. Galupo, et al.*[38], it is not sufficient that the property is possessed in the concept of owner; it must also be peaceful and uninterrupted. In this case, there is no quibble that the petitioners and their predecessor-in-interest had been in possession of the property for a considerable period of time. However, records show that petitioner Ruben together with his siblings relinquished and waived their right of possession in favor of Lilibeth's mother, Rufina Alcantara Castro, on May 29, 1974. From then on, petitioners' possession was no longer adverse or uninterrupted, nor in the concept of an owner as the waiver is anathema to their claim of ownership. The only ineluctable conclusion is that the petitioners' possession of the property was by mere tolerance of Rufina and later by Lilibeth when the subject property was transferred to and titled in her name. As aptly found by the MTCC:

xxx It is worth noting that in the "Joint Affidavit" of the Calanocs dated May 29, 1974, the siblings waived their rights, interest and participation over Lot 4677 in fulfillment of their father's wish to transfer ownership and possession to plaintiff's predecessor-in-interest considering that the latter gave a sizeable amount to the former's father which was spent for his medication prior to his death. Notably further, the heirs of Rufina Alcantara Castro are all residents of Manila and Canada. For humanitarian consideration therefore and because no one would look over the property, defendants Calanoc were temporarily allowed to stay in the premises.[39]

Indeed, We see no compelling reason to deviate from the findings of the MTCC and, therefore hold that petitioners became deforciants, illegally occupying the subject property from the moment they were demanded to leave the same. They no longer have the authority to prolong their possession.

At any rate, Katibayan ng Orihinal naTitulo Blg. P-13830 that covers the subject property and issued in the name of Lilibeth is the best proof of ownership[40] and must prevail over petitioners' unfounded claim of acquisitive prescription. As registered owner, Lilibeth enjoys the correlative right to possess her property and take actions against any person unlawfully occupying it in order to recover rightful possession.[41] Time and again, the Supreme Court exhorts on the age-old rule that the person who has a Torrens title over a land is entitled to possession thereof.[42]

Anent petitioners' contention that Lilibeth was never in possession of the property, suffice it to state that prior physical possession is immaterial in unlawful detainer, unlike in forcible entry.[43] What is important is for the party to establish his better right of possession in order to successfully oust the present possessor of the realty, as succinctly elucidated in *Arambulo v. Gungab*,[44] to wit:

We also cannot sustain petitioners' contention that since they had possession of the subject property, they are entitled to remain there. Again, they confuse unlawful detainer with forcible entry. Prior physical possession by the plaintiff is not necessary in an unlawful detainer case. It is enough that she has a better right of possession. Prior physical possession of a property by a party is indispensable only in forcible entry cases. In unlawful detainer cases, the defendant is necessarily in prior lawful possession of the property, but his possession eventually becomes unlawful upon termination or expiration of his right to possess. Thus, petitioners' prior physical possession of the property does not automatically entitle them to continue in said possession and does not give them a better right to the property.

In their last-ditch effort, to salvage their position, petitioners now insist that the MTCC and the RTC failed to rule on the issue pertaining to the identity of the subject property. Petitioners argue that Lot 4677-B differs in lot area and boundaries as that of the lot they are occupying. We are not swayed. This issue had been decisively resolved by the MTCC based on the documentary evidence submitted by the parties, which was sustained by the RTC, viz:

Defendant Ruben Calanoc, has also applied for their Miscellaneous Sales Application of the disputed property, the same, however, had been rejected by the Community Environment and Natural Resources Office (CENRO) per its Order dated February 23, 2006 on the ground that a similar property had already been the subject of plaintiff's application.

So, contrary to the contention of the defendants, Lot 4677-B which had been conveyed to the plaintiff by the predecessor-in-interest of the defendants Calanoc is the same property which is being occupied by the latter and also the subject of defendant's application. It is likewise significant to note that even in the Tax Declaration of the defendants Calanoc, there appears to be an annotation to the effect that the property subject thereof is also declared in [the] name of Rufina Alcantara Castro.[45]

We also find proper the award of attorney's fees in favor of Lilibeth as she was compelled to litigate in order to protect her proprietary right and incurred expenses thereby.[46] Likewise, payment of the costs of suit to the prevailing party is a matter of course, pursuant to Section 1, Rule 142 of the Revised Rules of Court, which reads:

“Unless otherwise provided in these rules, costs shall be allowed to the prevailing party as a matter of course, but the court shall have power, for special reasons, to adjudge that either party shall pay the costs of an action, or that the same be divided, as may be equitable. No costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.”

WHEREFORE, the Petition is hereby DISMISSED for lack of merit. The Order dated May 18, 2010 and Judgment dated March 25, 2010 rendered by the Regional Trial Court Olongapo City, Branch 75 are AFFIRMED.

SO ORDERED.

Librea-leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Dropped as a party-petitioner per Minute Resolution dated October 1, 2010. Rollo, p. 121.

[2] Spelled as “Guban” in other parts of the records. Dropped as a party-petitioner per Resolution dated March 23, 2011. Id., p. 124.

[3] Id., pp. 9-22.

[4] Id., pp. 35-37. Penned by Judge Raymond C. Viray.

[5] Id., p. 39.

[6] Id., pp. 72-73.

[7] Id., p. 72.

[8] Id., pp. 74-76.

[9] Id., p. 47.

[10] Deed of Renunciation and Quit Claim. Id., p. 50.

[11] Id., pp. 51-53.

[12] Special Power of Attorney. Id., p. 45.

- [13]Id., pp. 40-44.
- [14] Id., p. 48
- [15] Id., pp. 51-53
- [16] Id., pp. 54-56.
- [17] Id., p. 80.
- [18] Id., pp. 23-34. Penned by Judge Norman V. Pamintuan.
- [19] Id., pp. 28-29.
- [20] Id., pp. 33-34.
- [21] Id., p. 15.
- [22] Id., p. 17.
- [23] Id., p. 18.
- [24] Id., p. 19.
- [25] Ibid.
- [26] Id., p. 20.
- [27] Supra at note 1.
- [28] Supra at note 2.
- [29] Dante M. Pascual v. Marilou M. Pascual, G.R. No. 157830, November 17, 2005.
- [30] See Uy v. Court of Appeals, 191 SCRA 275, 283.
- [31] Docena v. Lapesura, infra.
- [32] Abalos v. Macatangcay, G.R. No. 155043, September 30, 2004.
- [33] Docena v. Lapesura, G. R. 140153, March 28, 2001.
- [34] Rollo, p.51-53.
- [35] Section 16, Rule 70 of the Rules of Court.
- [36] Rodriguez v. Rodriguez, G.R. No. 175720, September 11, 2007 citing Ross Rica Sales Center, Inc. v. Ong, G.R. No. 132197, August 16, 2005, 467 SCRA 35, 50.
- [37] De Jesus v. Court of Appeals, G.R. No. 57092, January 21, 1993.
- [38] G.R. No. 139136, January 16, 2002.
- [39] Rollo, pp. 30-31.
- [40] Abi-abi, et al. v. Malawi, et al., G.R. No. 142518, April 4, 2001.
- [41] Article 428 of the Civil Code
- [42] Spouses Marcos R. Esmaguél and Victoria Sordevilla v. Maria Coprada, G.R. No. 152423, December 15,

2010, citing *Caña v. Evangelical Free Church of the Philippines*, G.R. No. 157573, February 11, 2008.

[43] *Arambulo v. Gungab*, G.R. No. 156581, September 30, 2005, citing *Javelosa v. CA*, G.R. No. 124292, December 10, 1996, 333 Phil. 331, 343.

[44] *Supra*.

[45] *Rollo*, pp. 28-29.

[46] Article 2208, paragraph (2), Civil Code.

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