

MIGUEL GRUTA, PETITIONER, VS. ESTATE OF THE LATE JUAN MARIA POSADAS III, REPRESENTED BY AIDA MACARAIG-POSADAS, IN HER CAPACITY AS THE SPECIAL ADMINISTRATRIX, RESPONDENT.

Ponente: VILLON, J.

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VILLON, J.:

Before this Court is a Petition for Review which assails the decision[1] dated February 20, 2004 of Branch 206 of the Regional Trial Court (RTC) of Muntinlupa City in Civil Case No. 03-192, which affirmed the decision[2] dated June 24, 2003 of Branch 80 of the Metropolitan Trial Court (MeTC) of Muntinlupa City in Civil Case No.5273, entitled “Estate of the Late Juan Maria Posadas III, represented by Aida Macaraig-Posadas, in her capacity as the Special Administratrix, Plaintiff, versus Miguel Gruta, Defendant,” for Unlawful Detainer.

In a complaint[3] for unlawful detainer, the administratrix of plaintiff, (herein respondent), averred that she is the appointed Special Administratrix of the estate of her late husband Juan Maria Posadas III; that one of her functions as such is to collate, manage and administer all and every property left by her late husband; that among those properties is Lot 3-D of a subdivision plan located at Upper Sucat, Muntinlupa City consisting of 3,478 square meters and covered by Transfer Certificate of Title No.218364 of the Register of Deeds for Muntinlupa City; that she discovered, through her caretaker and sister Vivian Macaraig-Montesines, that defendant, (herein petitioner), aside from keeping for himself the subject premises as resident thereof, attempted to occupy additional areas for commercial purposes, prompting her to seek the help of the Punong Barangay of Sucat, Muntinlupa City; thereafter, a “Kasunduan ng Pag-aayos” wherein petitioner promised to vacate the premises on May 28, 2002 was executed by the herein parties; that petitioner failed to comply with the agreement and failed to vacate the subject premises on the agreed date; that a formal demand, through counsel, was made upon petitioner to vacate the premises and pay the unpaid rentals, which he ignored, thus she was constrained to file the complaint for unlawful detainer.

In his answer,[4] petitioner averred by way of special and affirmative defense that the complaint did not confer jurisdiction upon the MeTC; that he has been occupying the subject land for several years by virtue of an authority granted to him by the registered owner thereof, the Tallano-Acop Estate, under Transfer Certificate of Title (TCT) No. T-408 which is derived from Original Certificate Title (OCT) No.T-01-4; and that respondent’s cause of action had already prescribed.

On June 23, 2003, the MeTC rendered a decision, the decretal portion of which reads:

“WHEREFORE, judgment is hereby rendered in favor of plaintiff, Estate of the late Juan Maria Posadas III, represented by Aida Macaraig-Posadas, in her capacity as the Special Administratrix and against the defendant, Miguel Gruta, ordering:

1. The defendants and all persons claiming rights under them to vacate the subject property, located at upper Sucat, Solid Mills Side, Meralco Road, Sucat, Muntinlupa City and particularly described under Transfer

Certificate of Title No. 218364 issued by the Registry of Deeds of Muntinlupa, and surrender possession thereof to the plaintiff;

2. The defendants to demolish and/or remove any and all improvements introduced thereat; and

3. The defendant to pay the plaintiff the amount of P20,000.00 as attorney's fees.

Costs against the defendant.

SO ORDERED."

On appeal, the RTC of Muntinlupa City, Branch 206, in its decision dated February 20, 2004, affirmed the judgment of the MeTC, thus:

"WHEREFORE, the appealed Decision dated June 24, 2003 of the trial court is AFFIRMED, and the appeal of defendant-appellant is DISMISSED for lack of merit.

SO ORDERED."

Hence, petitioner filed the instant petition for review, raising the following arguments:

I

DEFENDANT-APPELLANT HAS BEEN IN ACTUAL PHYSICAL POSSESSION OF THE SUBJECT LAND FOR THIRTY (30) YEARS NOW.

II

THE COMPLAINT SHOULD BE DISMISSED ON THE GROUND THAT NO ALLEGATIONS CONSTITUTIVE OF EITHER UNLAWFUL DETAINER OR FORCIBLE ENTRY ARE ALLEGED IN THE COMPLAINT AND

III

THAT PLAINTIFF-APPELLEE FAILED TO FILE ITS PRE-TRIAL BRIEF, AS ORDERED.

Petitioner insists that the allegations in the complaint did not confer jurisdiction upon the MeTC either for unlawful detainer or forcible entry. We are not persuaded.

It is an elementary rule that the jurisdiction of a court over the subject matter is determined by the allegations of the complaint and cannot be made to depend upon the defenses set up in the answer or pleadings filed by the defendant.[5] This rule is no different in an action for forcible entry or unlawful detainer.[6] All actions for forcible entry or unlawful detainer shall be filed with the proper Metropolitan Trial Courts, the Municipal Trial Courts and the Municipal Circuit Trial Courts, which actions shall include not only the plea for restoration of possession but also all claims for damages and costs arising therefrom.[7]

The pertinent allegations in the complaint[8] in Civil Case No. 5273 read as follows:

"xxx xxx xxx

4. THAT your plaintiff through CARETAKER/SISTER VIVIAN MACARAIG-MONTESINES DISCOVERED THAT DEFENDANT MIGUEL GRUTA, aside from illegally and maliciously keeping for himself as residence, further attempted to occupy some more for commercial purposes without the knowledge and permission of the real owners thereto, thus—forcing them to seek the help, assistance and intervention of PUNONG BARANGAY EPIFANIO SALVADOR of Sucat, Muntinlupa City, who cause the execution of KASUNDUAN NG PAG-AAYOS dated May 8, 2002, a machine copy of which kasunduan is hereto attached as annex "B" and made integral part hereof;

5. THAT defendant MIGUEL GRUTA instead of faithfully complying thereto as agreed, did then and there

maliciously and fraudulently failed, neglected and refused to vacate subject premises last May 28, 2002, but still refused and intentionally failed to sign same KASUNDUAN as promised (sic), and further completed/finished which construction to the damage and prejudice of the plaintiff;

6. THAT in order to protect their interest, plaintiff hired the services of undersigned counsel, who as an initial step thereat sent defendant a formal and last letter of demand dated June 3, 2002, giving him ten (10) days to vacate said premises and pay the corresponding rentals, but all to no avail to the further damage and prejudice of the plaintiff, copy of the said letter of June 3, 2002, together with the registry return card, receipts are hereto attached as annexes 'C', 'C-1', and 'C-2' and made integral parts hereof;"

It is clear from the foregoing that the allegations in the complaint constitute a clear case for unlawful detainer and is properly within the jurisdiction of the MeTC. A complaint for unlawful detainer is sufficient if it alleges that the withholding of the possession or the refusal to vacate is unlawful without necessarily employing the terminology of the law.[9] To show a cause of action in an unlawful detainer, an allegation that the defendant is illegally withholding possession from the plaintiff is sufficient.[10] In this case, there was an allegation showing that petitioner occupied the subject premises by virtue of respondent's tolerance. The cause of action of respondent for unlawful detainer stemmed from petitioner's refusal to vacate the subject premises upon receipt of the demand letter. Plainly stated, the MeTC had validly exercised its jurisdiction over the case for unlawful detainer below.

Neither can we sustain petitioner's contention that he has been in actual and physical possession of the subject property for thirty (30) years, and therefore, is entitled to remain in the subject premises. The evidence show that subject property is registered under the name of respondent. A person who has a Torrens Title over the property is entitled to the possession thereof. The fact that the respondent was never in prior physical possession of the subject land is of no moment, as prior physical possession is necessary only in forcible entry cases.[11] Then too, except for petitioner's unsubstantiated claim that he occupied the subject premises for a long period of time by virtue of an authority granted to him by Tallano-Acop Estate, he has not presented evidence in support thereof, or adduced other justification for his continued stay in the said premises. It bears stressing that allegations must be proven by sufficient evidence. Mere allegation is not evidence, and is not equivalent to proof.[12]

The rule is that possession by tolerance is lawful, but such possession becomes unlawful when the possessor by tolerance refuses to vacate upon demand made by the owner. A person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise to vacate upon demand, failing which, a summary action for ejectment is the proper remedy.[13] Since petitioner's occupation of the subject property was by mere tolerance of respondent, he is not entitled to retain its possession after a demand to vacate is made upon him.

Finally, petitioner cannot seek dismissal of this case by reason of respondents' failure to submit the pre-trial brief before the MeTC. Ejectment by way of forcible entry and unlawful detainer cases are summary proceedings, designed to provide an expeditious means of protecting actual possession or the right to possession over the property involved. It is a timely procedure designed to remedy the delay in the resolution of such case.[14] In addition, petitioner has not been denied his day in court by reason of respondent's failure to file a pre-trial brief. It is basic that as long as a party is given the opportunity to defend his interests in due course, he would have no reason to complain, for it is this opportunity to be heard that makes up the essence of due process.

And, as aptly ruled by the RTC:

"The Court can neither sustain defendant-appellant's[15] argument that the non-submission by plaintiff-appellee[16] of pre-trial brief is fatal. Although Section 8, Rule 70 of the Rules of Court states that 'the provisions of Rule 18 on pre-trial shall be applicable to the preliminary conference,' it only pertains to the matter of appearance of the parties in the preliminary conference and not to the submission of pre-trial brief, as

clearly indicated in the succeeding paragraphs of said Section 8. In any case, what is required to be submitted by the parties are their respective position papers, as the trial court directed in its Order dated April 22, 2003 and which both plaintiff-appellee and defendant-appellant submitted before the case was decided.”

WHEREFORE, in view of all the foregoing, the instant petition is **DISMISSED** for lack of merit. The assailed decision dated February 20, 2004 of Branch 206 of the Regional Trial Court of Muntinlupa City is hereby **AFFIRMED**.

SO ORDERED.

Sabio, Jr., (Chairman) and Asuncion-Vicente, JJ., concur.

[1] Rollo, pp. 18-23

[2] Rollo, pp.61-66

[3] Rollo, pp. 25-28

[4] Rollo, pp.

[5] Rozas v. CA, G.R. No. 138955, October 29, 2002.

[6] Lavido v. CA, G. R. No. 123462, April 10,1997, 271 SCRA 143.

[7] Progressive Development Corp., Inc. v. CA, G.R. No.123555, January 22, 1999, 301 SCRA 637.

[8] Rollo, pp. 25-28

[9] Jimenez v. Patricia Inc., G.R. No.134651, September 18, 2000, 340 SCRA 525.

[10] Macasaet v. Macasaet, 439 SCRA 625.

[11] Apostol v. CA, 432 SCRA 351.

[12] Prescilla Nedia et al., v. Judge Celso Lavina et al.,, A.M. No. RTJ-05-1957, September 26, 2005.

[13] Santos v. Ayon, G.R. No. 137013, May 6, 2005.

[14] Don Tino Realty and Dev’t Corp. v. Florentino, G.R. No. 134222, September 10, 1999.

[15] Petitioner herein.

[16] Respondent herein.

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