

NENA SESALDO, ARLENE AGAICTA, MARIVIC ALBORES, MARIA ABINGASA, ERENIO LETEGIO, JR., FLOR BAGAHANSOL, MELECIO SESALDO, AMADO SESALDO, PETITIONERS, VS. FERDINAND A. KINTANAR, LUIS...

Ponente: LOPEZ, J.

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LOPEZ, J.:

This is a Petition for Review under Rule 42 of the Rules of Court where petitioners seek the reversal of the Decision[1] of the Regional Trial Court (RTC), Branch 9, Cebu City, which affirmed the Judgment[2] of the Municipal Trial Court in Cities (MTCC), Branch 2, Cebu City in Civil Case No. R-56771 for Ejectment. The fallo of the RTC Decision states:

“WHEREFORE, premises considered, the instant appeal is hereby DISMISSED and the Decision dated March 14, 2012 by the Municipal Trial Court in Cities, Branch 3, Cebu City is hereby AFFIRMED in toto.

SO ORDERED.”

THE FACTS

Petitioners are the defendants in the Complaint³ for Ejectment docketed as Civil Case No. R-56771 filed against them by respondents. Prior to this ejectment case, respondents’ mother, the late Catalina A. Kintanar, filed a case for Execution of Compromise Settlement Before the Lupon Under Section 417 of the Local Government Code against petitioners before the MTCC, Branch 1, Cebu City which was docketed as Civil Case No. B-285.[4]

Apparently, respondents’ mother had filed a complaint for ejectment against petitioners before the Office of the Barangay Captain of Barangay Labangon, Cebu City where the parties reached an amicable settlement, the terms of which were embodied in an Agreement.[5] When the agreement was neither repudiated nor enforced by execution within six (6) months, respondents’ mother filed the complaint in Civil Case No. B-285. However, the parties therein, with respondents having substituted their mother who died during the pendency of the case, filed a Joint Motion to Dismiss[6] Civil Case No. B-285 which was granted by the MTCC, Branch 1, Cebu City in its Order[7] of June 22, 2011.

Subsequently, respondents filed Civil Case No. R-56771 alleging that petitioners illegally built their houses on Lot No. 5943-E registered in the name of their mother, Catalina Kintanar. Despite the Agreement between the parties before the Office of the Barangay Captain of Barangay Labangon, Cebu City for the petitioners to vacate the premises after December 31, 2010, petitioners continued to occupy the property. Demands to vacate were sent by respondents to petitioners but the latter refused to heed such demands.

In their Answer,[8] petitioners contended that their signatures on the so-called Agreement were obtained through coercion and threats. There was no actual conciliation proceedings conducted before the barangay. Thus, petitioners denied the genuineness and due execution of the document denominated as an Agreement. Petitioners also raised the defense of res judicata, contending that the judgment in Civil Case No. B-285 which was dismissed

with prejudice is tantamount to a judgment on the merits. Petitioners further contended that respondents are guilty of forum shopping when they instituted the present case after Civil Case No. B-285 had already been dismissed.

On March 14, 2012, the MTCC, Branch 3, Cebu City rendered its Decision, the dispositive portion of which states:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiffs and against defendants, ordering the defendants and all persons claiming rights under them, to:

- VACATE Lot No. 5943-E, and to TURN-OVER possession over the same to the herein plaintiffs;
- REMOVE the structures or improvements they have introduced on the said Lot at their own expense;
- PAY the amount of P500.00 each per month by way of damages from the time the decision becomes final until actual turn-over of possession to the plaintiffs; and
- PAY jointly and severally the filing fees.

SO ORDERED.”

Petitioners appealed to the RTC, Branch 9, Cebu City which rendered the Decision now subject of this Petition for Review before this Court.

In their Petition, petitioners raised the following issues:

I

WHETHER THE COURT A QUO GRAVELY ERRED WHEN IT AFFIRMED THE DECISION OF THE MTCC, BRANCH 3, CEBU CITY DECLARING THE PETITIONERS AS IN DEFAULT FOR FAILING TO ATTEND THE PRELIMINARY CONFERENCE;

II

WHETHER OR NOT THE COMPLAINT SHOULD HAVE BEEN BARRED BY RES JUDICATA, and

III

WHETHER OR NOT THE COMPLAINT SHOULD HAVE BEEN DISMISSED OUTRIGHT BY REASON OF FORUM SHOPPING/VIOLATION OF ADMINISTRATIVE CIRCULAR 4-94.

OUR RULING

The petition is without merit.

An ejectment case, based on the allegation of possession by tolerance, falls under the category of unlawful detainer. Where the plaintiff allows the defendant to use his/her property by tolerance without any contract, the defendant is necessarily bound by an implied promise that he/she will vacate on demand, failing which, an action for unlawful detainer will lie.[9]

The only issue to be resolved in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties involved.[10]

In this case, it is undisputed that Lot No. 5943-E subject of the controversy between the parties is covered by Transfer Certificate of Title No. T-189360 in the name of respondents’ mother, Catalina Kintanar. It is an age-old rule that the person who has a Torrens Title over a land is entitled to its possession.[11] As heirs of their mother, respondents have the better right to the possession of Lot No. 5943-E as against petitioners whose possession became illegal after the demand to vacate was made upon them.

On the other hand, petitioners had not adduced any evidence in support of any right to possess Lot No. 5943-E. Although they attack the validity of the prior Agreement entered into between the parties before the Office of the Barangay Captain of Barangay Labangon, Cebu City, such issue is alien to an ejectment proceeding where the only question to be resolved 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. In an unlawful detainer case, the sole issue for resolution is the physical or material possession of the property involved, independent of any claim of ownership by any of the party litigants.[12]

As things stand between the parties, therefore, respondents have the better right to possess Lot No. 5943-E registered in the name of their mother. Per the parties' Agreement, the validity of which cannot be passed upon in this ejectment proceeding, petitioners only had until December 31, 2010 to continue their occupation of the property. Thus, after December 31, 2010, petitioners' occupation of the land had become illegal. Yet, even if the Agreement is set aside, petitioners' occupation of Lot No. 5943-E had become illegal upon respondents' demand for them to vacate the premises. The RTC, therefore, correctly affirmed the MTCC's finding that the continued withholding by petitioners of the possession of Lot No. 5943-E sufficiently supports the action for unlawful detainer.

The RTC also correctly held that res judicata had not set in and the present ejectment suit is not barred by the judgment in Civil Case No. B-285. As pointed out by the RTC, there is no identity of causes of action between the two cases considering that in Civil Case No. B-285, the cause of action was the enforcement of the Agreement entered into by the parties before the Office of the Barangay Captain of Barangay Labangon, Cebu City while in this ejectment suit, the cause of action is for unlawful detainer where there was unlawful withholding of possession of the subject Lot No. 5943-E.

Anent the supposed lack of due process when petitioners were declared as in default by the MTCC, which declaration was affirmed by the RTC, such purported lack is not supported by the evidence on record. Aside from petitioners' bare allegations, no other proof was adduced to support their claim of lack of notice of the scheduled preliminary conference. On the contrary, it was clearly stated in the MTCC Decision that petitioners failed to appear during the scheduled preliminary conference on January 30, 2012 and the case was ordered submitted in accordance with the provisions of the Rules of Court. There is no showing that petitioners took any further recourse from the said MTCC order.

To reiterate, 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 MTC or metropolitan trial court. The action must be brought up within one year from the date of last demand, and the issue in the case must be the right to physical possession.[13]

A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:[14]

1. initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
2. eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
4. within one year from the last demand on defendant to vacate the property, the plaintiff instituted the

complaint for ejectment.

Respondents in this case sufficiently established their cause of action against petitioners and had amply proven their right to better possession of Lot No. 5943-E.

WHEREFORE, the petition is DENIED. The January 10, 2013 Decision of the RTC, Branch 9, Cebu City in (appealed) Civil Case No. CEB-38942 is hereby AFFIRMED.

SO ORDERED.

Delos Santos, J., Chairman, and Lagura-Yap, JJ., concur.

[1] Rollo, page 43

[2] Rollo, page 110.

[3] Rollo, page 58.

[4] Rollo, page 19.

[5] Rollo, page 25.

[6] Rollo, page 38.

[7] Rollo, page 40.

[8] Rollo, page 88.

[9] Republic v. Luriz, 542 Phil. 137, cited in Manila Electric Company vs. Heirs of Spouses Dionisio Deloy and Praxedes Martonito, G.R. No. 192893, June 5, 2013

[10] Manila Electric Company vs. Heirs of Spouses Dionisio Deloy and Praxedes Martonito, supra., citing Samelo v. Manotok Services, Inc., G.R. No. 170509, June 27, 2012.

[11] William T. Go vs. Alberto T. Looyuko, et al., G.R. No. 196529, July 1, 2013, citing Corpuz v. Sps. Agustin, G.R. No. 183822, January 18, 2012.

[12] Juanita Ermitaño vs. Lalaine M. Paglas, G.R. No. 174436, January 23, 2013, citing Barrientos v. Rapal, G.R. No. 169594, July 20, 2011.

[13] Rosa delos Reyes vs. Spouses Francisco Odonos, et al., G.R. No. 178096, March 23, 2011, citing Valdez, Jr. v. CA, G.R. No. 132424, May 4, 2006.

[14] Cabrera v. Getaruela, G.R. No. 164213, April 21, 2009, cited in delos Reyes vs. Spouses Odonos, supra.

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