

ALMARIO LICUDAN, PETITIONER, VS. REMEGIO L. ALEJANDRO, RESPONDENT.

Ponente: MAAMBONG, J.

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MAAMBONG, J.:

THE CASE

This is a Petition for Review on certiorari under Rule 42 of the 1997 Rules of Civil Procedure assailing the Decision of the Regional Trial Court of Morong Rizal, Branch 78 (RTC of Morong Rizal, Branch 78) in Civil Case 02-1427-M dated February 26, 2003,[1] which affirmed the decision of the Municipal Circuit Trial Court of Pililla-Jalajala in Civil Case No. 518-p[2] rendered in favor of respondent and against herein petitioner, ALMARIO LICUDAN (“LICUDAN”) and all persons claiming rights under him.

THE FACTS

The antecedent facts are as follows:

Respondent, REMEGIO L. ALEJANDRO (“ALEJANDRO”) is the registered owner of a lot located at Naval Street, Barangay Malaya, Pililla, Rizal as evidenced by Transfer Certificate of Title No. M-21781 issued to him on December 12, 1984.

In 1985, ALEJANDRO allowed LICUDAN to occupy the said lot without paying any rentals. In 2001, ALEJANDRO, needing the property for his personal use, verbally demanded for LICUDAN to vacate the property and gave him three months to do so. When LICUDAN refused to vacate the premises after the expiration of the three months period, ALEJANDRO through his legal counsel sent a letter to LICUDAN demanding the latter to vacate the premises within 30 days from receipt thereof.

Due to LICUDAN’s continued refusal to vacate the premises, ALEJANDRO filed a complaint for Unlawful Detainer with Damages before the MCTC of Pililla-Jalajala, Rizal. On July 29, 2002, the MCTC rendered a decision in favor of ALEJANDRO, the dispositive portion of which reads:

WHEREFORE, this Court hereby renders judgment in favor of the plaintiff against the above-named defendants, and all those persons claiming rights under him, ordering the latter:

- to leave and vacate that portion of the land situated at Naval Street, Bgy. Malaya, Pililla, Rizal, covered by Transfer Certificate of Title No. M-21781 in the name of Remigio Alejandro, which is being occupied by said defendants, and to remove any and all improvements introduced therein and to peacefully surrender and deliver possession thereof to herein plaintiff;
- to pay reasonable rentals in the amount of P500.00 per month, computed from the date the last demand was made which was on November 14, 2000 until the defendant and all those persons claiming rights under him had (sic) actually left and vacated the subject premises;
- to pay grand total of P20,000.00 representing both the attorney’s fees and costs of suit.

SO ORDERED.

On appeal by LICUDAN, the RTC of Morong Rizal, Branch 78 rendered a Decision, dated February 26, 2003 affirming in toto the decision of the MCTC. Hence, the instant petition assailing the RTC's decision on three assigned errors, to wit:

I.

WITH ALL DUE RESPECT, THE HONORABLE REGIONAL TRIAL COURT COMMITTED SERIOUS ERROR IN AFFIRMING THE DECISION OF THE HONORABLE COURT A QUO IN ORDERING THE APPELLANT-DEFENDANT TO LEAVE THE PORTION OF THE LAND SITUATED AT NAVAL STREET, BARANGAY MALAYA, PILILLA, RIZAL.

II.

WITH ALL DUE RESPECT, THE HONORABLE REGIONAL TRIAL COURT COMMITTED SERIOUS ERROR IN AFFIRMING THE DECISION OF THE HONORABLE COURT A QUO IN HOLDING THAT THE APELLANT-DEFENDANT IS LIABLE TO PAY REASONABLE RENTALS IN THE AMOUNT OF P500.00 A MONTH.

III.

WITH ALL DUE RESPECT, THE HONORABLE REGIONAL TRIAL COURT COMMITTED SERIOUS ERROR IN AFFIRMING THE DECISION OF THE HONORABLE COURT A QUO WITHOUT CONSIDERING THAT THE INSTANT CASE HAS NOT GONE THROUGH THE BARANGAY CONCILIATION AND MEDIATION.

THE ISSUE

Whether or not the RTC of Morong Rizal, Branch 78 erred in affirming the decision of the MTC.

THE RULING

The Court finds the present petition bereft of merit.

LICUDAN argued that the allegations in the complaint filed by ALEJANDRO before the MCTC does not show that the MCTC has jurisdiction to entertain the case.

In order to dispense with the issue of whether the MCTC has jurisdiction over the unlawful detainer case filed by ALEJANDRO there is a need to ascertain the nature of the action which can be determined from the facts averred in the complaint as constituting his cause of action. The settled principle is that the allegations of the complaint determine the nature of the action and consequently the jurisdiction of the courts.[3] This rule applies whether or not the complainant is entitled to recover upon all or some of the claims asserted therein as this is a matter that can be resolved only after and as a result of the trial.[4]

In the instant case, ALEJANDRO filed before the MCTC a case for unlawful detainer against LICUDAN allegedly by reason of tolerance. Tolerance, as a ground for unlawful detainer, must be present from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer.[5]

In the complaint of ALEJANDRO, it was clearly alleged that possession of LICUDAN by mere tolerance started "sometime in the year 1985, defendant (LICUDAN) was allowed and tolerated by the herein plaintiff (ALEJANDRO) thru the latter's mother Luz L. Alejandro, to possess and occupy a portion of the subject land".[6] Likewise clearly alleged is the fact that ALEJANDRO filed the complaint for unlawful detainer within

one (1) year from the time the written demand made by his counsel was received by LICUDAN and the latter still failed to vacate the premises despite the demand.[7]

Reliance by LICUDAN in the case of *Deveza vs. Montecillo*[8] wherein the Supreme Court ruled that the averments in the complaint did not fit into the legal precept of unlawful detainer, is misplaced. In the *Deveza* case there was no allegation in the complaint that petitioners were deprived of possession of the disputed land “by force, intimidation, threat, strategy, or stealth”, which would bring the case within the definition of forcible entry. Nor was there any allegation that respondent withheld possession of the land “after the expiration or termination of the right to hold possession by virtue of any contract, express or implied.” In fact, in said case it was extant on the record that petitioners made a categorical statement or admission in the course of oral arguments on the motion to dismiss before the justice of the peace court, respondent had been in possession for more than one year prior to the institution of the complaint. Clearly, the facts as averred in the complaint and as admitted by petitioners did not meet the requirement for the filing of a case for unlawful detainer or forcible entry under Rule 70 of the Rules of Court.

Anent the claim of LICUDAN that he inherited the land in question from his parents Salvador Licudan and Florencia Mendoza who occupied the same for more than fifty (50) years, We cannot give weight to foregoing allegation because as correctly observed by the trial court, he did not adduce any evidence to prove his claim. Bare allegations, unsubstantiated by evidence, are not equivalent to proof under our Rules.[9]

An unlawful detainer case contemplates a situation where the possession by the defendant of the property in dispute was originally lawful, but becomes unlawful by the termination of the right to possess said property by virtue of a contract, express or implied.[10] Where possession by defendant of the property in dispute is at the tolerance of the plaintiff, defendant is bound by an implied promise that he will vacate upon demand, and if he fails to do so, a case for ejectment may be instituted against him.[11]

With the foregoing discussion, We cite with approval the foregoing pronouncement of the RTC of Morong Rizal, Branch 78, thus:

The Court finds the argument of the defendant-appellant misplaced. The fact stands that the plaintiff is the registered owner of Transfer Certificate of Title No. M-21781 and admittedly tolerated the occupation of his property through his mother. It is basic that from the time the plaintiff demanded for the defendant to vacate the premises, the tolerance ceased. The right to file this action is available and jurisdiction is well within the Municipal Circuit Trial Court (MCTC) that heard the case. (Emphasis Supplied)

WHEREFORE, the instant petition for review is DENIED for lack of merit. The Decision of the RTC of Morong Rizal, Branch 78 dated February 26, 2003 affirming in toto the decision of Municipal Circuit Trial Court of Pililla-Jalajala is hereby AFFIRMED.

SO ORDERED.

Buzon, (Chairman) and Dimaampao, JJ., concur.

[1] Rollo, pp. 55-59.

[2] *Ibid.*, pp. 35-37.

[3] *Abrin v. Campos*, 203 SCRA 420 (1991); *Notre Dame Hospital v. Mallari-Phillips*, 197 SCRA 187 (1991); *Bautista v. Fernandez*, 38 SCRA 548 (1971) cited in the case of *Bulao vs. Court of Appeals, et. al.* 218 SCRA 321 (1993).

[4] Magay v. Estiandan, 69 SCRA 456 (1976); Bulao, supra.

[5] See Muñoz vs. Court of Appeals, 214 SCRA 216 (1992); Refugia vs. Court of Appeals, 258 SCRA 347 (1996); Sarona vs. Villegas, 22 SCRA 1257 (1968).

[6] Rollo, p. 26-27, paragraph 4 of Complaint.

[7] Ibid., See paragraph 7 of Complaint.

[8] 27 SCRA 822 (1969).

[9] See Philippine National Bank v. CA, 266 SCRA 136, (1997); Martinez v. National Labor Relations Commission, 272 SCRA 793, (1997).

[10] Espiritu vs. Court of Appeals, et. al., 309 SCRA 355 (1999).

[11] Munoz vs. Court of Appeals, 214 SCRA 216 (1992).

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