

DOMINADOR TAMSI, PETITIONER, VS. MIRAFLOR Z. GACAYAN, RESPONDENT.

Ponente: BARRIOS, J.

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BARRIOS, J.:

A complaint for Unlawful Detainer was lodged by the respondent Miraflor Z. Gacayan (or hereafter Gacayan) against the spouses Dominador Tamsi and Leonida Tamsi (or the Tamsis) before the Municipal Trial Court of Baguio City (or MTCC) which was docketed as Civil Case No. 11718.

The decision rendered was unfavorable to Gacayan who appealed to the Regional Trial Court (or RTC) of the same city where it was docketed as Civil Case No. 5228-R.

The RTC reversed and set aside the MTCC ruling, hence this petition for review by Tamsi.

In her complaint, Gacayan averred that she is the owner and lawful possessor of a land and building in the corner of the Alley and Subdivision Road, Victoria Village, Baguio City. In 1984 her mother Ildefonsa allowed the Tamsis to occupy this on condition that they would vacate when the Gacayans would require it. On June 10, 2000, Gacayan informed the Tamsis that they now have need of the property and gave them one (1) year or until June 10, 2001 within which to vacate. The Tamsis agreed, but did not make good on their promise. Formal demand to vacate was sent them but the Tamsis still failed and refused to leave the premises and so Gacayan filed this suit for Unlawful Detainer before the MTCC on October 22, 2001.

In their traverse, the Tamsis alleged lack of jurisdiction over the action, prescription and laches. Also, they denied Gacayans' alleged ownership and possession of the lot and the house standing thereon. The lot is a public land and they occupied this in 1984 when this still had a steep terrain. Through their efforts and without any assistance from the Gacayans, they constructed a house on this lot. The Tamsis claimed that the Gacayans had no legal right to demand their eviction and so they prayed for the dismissal of the complaint.

On March 22, 2002, the MTCC rendered its Decision decreeing that:

WHEREFORE, on grounds of no valid cause of action against the defendants, the Courts DISMISSES the Complaint and the plaintiff is ordered to pay the cost of this suit.

SO ORDERED. (p. 37, rollo)

But on appeal this was reversed and set aside by the RTC in the assailed Decision dated August 29, 2002, the decretal portion of which reads:

WHEREFORE, premises considered, the decision of the Municipal Trial Court, Branch 3, Baguio City, dated March 22, 2002 appealed from is reversed and set aside and a new one in its instead as follows:

- Ordering the defendants Dominador Tamsi and Leonida Tamsi and their children and all persons claiming rights under them to vacate the house owned by plaintiff Mariflor Gacayan standing on Lot 18, Block 52 (previously Block 53), Vicotoria Village Baguio City and turn over the same and restore possession thereof to Miraflor

Gacayan;

- Ordering the defendants Dominador Tamsi and Leonida Tamsi and all their children and all persons claiming rights under them to vacate the premises of the land, Lot 18, Block 52 (previously Block 53), Victoria Village Baguio City and turn over the same and restore possession thereof to its lawful possessor Miraflor Gacayan;
- Ordering the defendants and their children and all those claiming rights under them to remove all their improvements on Lot 18, Block 52, Victoria Village, Baguio City, within 30 days from the time the judgment becomes final, otherwise, If the defendants fail to remove the same as herein ordered, the said improvements shall be removed at their expense in a special order of demolition that may be applied for hereafter by the plaintiff;
- Ordering the defendants to pay the sum of P2,000.00 a month as reasonable compensation for the use of the one-storey house of plaintiff Mariflor Gacayan from September 15, 2001 until they shall have vacated the premises, removed improvements and turned over and restored possession thereof to the plaintiff.
- To pay the costs.

SO ORDERED. (pp. 30-31, rollo)

Hence this petition for review with the Tamsis assigning as the errors committed by the RTC the following:

1.

THE APPELATE (sic) COURT ERRED IN NOT DISMISSING THE CASE FOR LACK OF JURISDICTION OF THE LOWER COURT.

2.

THE APPELLATE COURT ERRED IN FINDING THAT RESPONDENT WAS IN PRIOR PHYSICAL POSSESSION OVER THE LAND OF PETITIONER DESPITE FAILURE OF THE LATTER TO ADDUCE SUBSTANTIAL EVIDENCE TO WARRANT HER CLAIM AND TO SPECIFICALLY IDENTIFY THE LAND IN CONTROVERSY.

3.

THE APPELLATE COURT SERIOUSLY ERRED IN FINDING THAT RESPONDENT WAS IN POSSESSION OVER THE LAND OF PETITIONER WAY BACK IN 1976 DESPITE THE FACT THAT RESPONDENT'S ALLEGATION OF POSSESSION THERETO IN HER COMPLAINT CAN ONLY BE TRACED BACK TO 1984.

4.

THE APPELLATE COURT SERIOUSLY ERRED IN CONSIDERING THE TAX DECLARATION, TOWNSITE SALES APPLICATION, THE UNTRANSLATED LETTER OF RESPONDENT TO PETITIONER AS CIRCUMSTANCES SHOWING PRIOR POSSESSION AND TOLERANCE BY THE LATTER FOR THE FORMER TO OCCUPY THE SAME.

5.

THE APPELLATE COURT SERIOUSLY ERRED IN JOINING THE CHILDREN OF PETITIONER IN THE DECISION DESPITE THE FACT THAT SAID CHILDREN WERE NOT INCLUDED AS PARTY-DEFENDANTS IN THE COMPLAINT AND EVEN IN THE PRAYER THEREOF. (pp. 14-15, rollo)

The Tamsis aver that the complaint for ejectment filed with the MTCC failed to state a cause of action. The

complaint did not allege the unlawful withholding of possession hence should be dismissed.

Contrary to what the Tamsis want to portray, the allegations sufficiently presented a case for unlawful detainer. Gacayan averred that she is the owner and possessor of the land and building in corner Alley and Subdivision Road in Victoria Village Baguio City. She allowed the Tamsis to occupy this on the condition that they would vacate the property once she needs it. The Tamsis agreed when required to vacate the property on June 20, 2001 but they did not make good their promise. She sent a demand letter asking them to vacate the property but the Tamsis refused thereby depriving her of possession of the property. The complaint was also filed within one year from the date of demand. Clearly the complaint established the basic elements of a suit for unlawful detainer.

The Tamsis further aver that Gacayan failed to prove ownership of the subject house and lot as they based this only on tax declarations, and insist that their own possession was not and could not be by mere tolerance. They thus fault the RTC in granting the relief that Gacayan had prayed for.

While not conclusive evidence of ownership, Gacayan's tax declaration constitutes proof that she has a claim of title over the lot (vide: *Ganila vs. Court of Appeals*, supra). As found by the RTC:

. . .several other circumstances support the claim of the plaintiff that she merely allowed and tolerated the occupancy by the defendants of the premises in question.

a) While the defendants are residing on the premises, plaintiff declared the land for taxation purposes on September 1988. She likewise declared for taxation purposes her one storey house thereon. And on June 4, 1991, she filed a Townsite Sales Application with the Lands Management Sector, DENR, Baguio City and was received by the A.O. 504 Records Section on the same date. Defendants on the other hand neither declared the land and the improvements thereon for taxation purposes nor applied for townsite sales application with the Bureau of Lands.

b) Likewise, when the plaintiff wrote the defendants on June 26, 2001 urging and pleading them to surrender the premises to her as she has already given them sufficient help by tolerating their stay on the premises, defendants did not answer the letter. Under the rules on evidence, there is an admission by silence here or implied admission. If indeed they entered the premises on their own and without the tolerance of the plaintiff, then they should have promptly disputed the claim of the plaintiff in her letter.

The omission of a party to reply to a statement in a letter about which he has knowledge and which if not true he would naturally deny is evidence tending to show that the statements so made and not denied are true.

c) More when Teofilo Olimpo, Deputy Inspector, DENR, Baguio City, conducted an ocular inspection in 1996 of the lot covered by the Townsite Application of plaintiff Miraflor Gacayan which is the same lot subject of this case, he noted that the defendants were residing on the premises so he inquired from them if they have filed a townsite or miscellaneous sales application over the lot and if they have a building permit for the structure thereon and the defendants admitted that the house and lot they are occupying are owned by the plaintiff who permitted them to stay there.

Again under the rules on evidence, there is an admission here. The rule on admission provides that the act, declaration or omission of a party is admissible against him. (pp. 28-29, rollo)

There is thus sufficient evidence that Gacayan has a better right to possess the subject property. Unfortunately for the Tamsis, they failed to rebut these pieces of evidence.

Jurisprudence is replete that in unlawful detainer, prior physical possession by the plaintiff is not necessary. It is enough that plaintiff has a better right of possession (*Ganila vs. Court of Appeals*, G. R. No. 150755, June 28, 2005; *Rivera vs. Rivera*, G. R. No. 154203, July 8, 2003). Thus, the fact that the Tamsis are in possession of the

lot does not automatically entitle them to remain in possession. Also, mere absence of title over the lot is not a ground for the courts to withhold relief from the parties in ejectment case (vide: *Ganila vs. Court of Appeals*, supra). The RTC therefore did not err in adjudicating the issue of possession in favor of Gacayan and against the Tamsis and all persons claiming rights under them, including their children. It goes without saying that the putative heirs or successors-in-interest of litigants need not be named, known nor impleaded. As such they are bound by the avails of the suit as they merely step into the shoes of the litigants.

The claim of the Tamsis that the property covered by the tax declarations and the Townsite Sales Application of Gacayan is different from the lot they are occupying, has to be rejected too. For one, the Tamsis never raised this issue in the proceedings a quo. It is certainly too late in the day to raise it for the first time in this petition. Also, sufficient evidence was presented that the lot possessed by the Tamsis is the same lot being claimed by Gacayan.

Because the RTC committed no reversible error in its challenged Decision –

WHEREFORE, the petition is DENIED DUE COURSE and accordingly DISMISSED.

SO ORDERED.

Guariña, III and Romilla-Lontok, JJ., concur.

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