

ARLINDA BONO, PETITIONER, VS. SPOUSES LEONARDO AND GREGORIA ALFREDO, RESPONDENTS.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

Before us is a Petition for Review under Rule 42 of the Rules of Court assailing the Order[1] dated January 22, 2013 of the Regional Trial Court, 6[th] Judicial Region, Branch 58, San Carlos City, Negros Occidental, reversing the Order[2] dated August 15, 2012 of the Municipal Trial Court in Cities, City of San Carlos, Region VI in Civil Case No. 1568 for Unlawful Detainer with Damages.

The Facts

Respondents the spouses Leonardo and Gregoria Alfredo [spouses Alfredo] acquired a parcel of land located at San Carlos City, Negros Occidental described as Lot 10-U with an area of 776 square meters, registered as TCT No. T-8200 from Planters Product, Inc.[3] After the sale, the spouses Alfredo were not placed in possession because herein petitioner Arlinda Bono [Bono] together with her successors-in-interest were occupying Lot 10-U.

This prompted the spouses Alfredo to file a case of unlawful detainer against Bono, Allan Braquil, Rogelio Vierneza, Alfredo Mahilum, Jr., Cesar Sayson, Elmira Apurado-Soria, Jubert Nanalabe, Victoriano Cortez, Martin Formoso, Hadji Reyes and Jovilito Camperoso before the Municipal Trial Court in Cities, Region VI, San Carlos City, Negros Occidental. The allegations in the complaint are hereto reproduced, thus:

- “1. That plaintiffs are Filipinos, all of legal age, married to each other, and residents of Barangay VI (Catagalogan), San Carlos City, Negros Occidental, while defendants are likewise all Filipinos, all of legal age, and residents of the same barangay, and place, this city, where they may be served with summons and other court processes.
2. That the plaintiffs are the absolute registered owners of Lot No. 10-U, located Barangay VI (Catagalogan), this city, described under Transfer Certificate of Title No. 098-20111000034, a machine copy of which title is hereto attached and marked as Annex “A”;
3. That all the defendants together with members of their immediate families are occupying portions of said property at the mere tolerance of plaintiffs;
4. That on March 23, 2012, plaintiffs, thru the undersigned counsel, sent letters of demand upon the defendants, informing them of the need by the former of their property, asking them to vacate the occupied premises within a period of 15 days from receipt of said letters, xxxxx;
5. That plaintiffs likewise coursed their just claim upon the defendants thru the office of the Lupong Tagapamayapa of Barangay VI, this city, and due to the intransigence of defendants a “Certification to File Action”, xxxxx
6. That defendants refused and failed, and still refuse and fail to vacate their occupied areas, to the prejudice and damage of the plaintiffs;

7. That the reasonable monthly rentals for the occupied premises is P500.00 per defendant;

8. That for the wanton and malicious refusal and failure of the defendants to heed the just and simple claim of plaintiffs, the latter were constrained to engage the professional services of counsel to whom they are obligated to pay the sum of P20,000.00, by way of attorney's fees, plus P1,000.00 by way of appearance fee per scheduled hearing.

xxxxx"[4]

Without trial, the MTCC dismissed the complaint for lack of jurisdiction as contained in its Order[5] dated August 15, 2012. A portion of its order, reads:

"The nature of defendants' entry into the land determines the cause of action, whether forcible entry or unlawful detainer. If the entry was illegal, then the action to be filed is forcible entry. If however, the entry was legal but the possession thereafter becomes illegal the case is unlawful detainer. Tolerance or permission must be present at the beginning of defendants' possession to justify an action for the unlawful detainer and this must appear on the face of the complaint. If the complaint does not aver the facts constitutive (of) unlawful detainer or forcible entry as where it does not state how the entry was effected or how and when the dispossession of defendants started the appropriate remedy is either accion publiciana or accion reivindicatoria in the proper regional trial court. In the instant case, the complaint merely states "3. That all the defendants together with the members of their immediate families are occupying portions of said property at the mere tolerance of plaintiffs;" In cases of unlawful detainer of this kind, it is essential that the supposed acts of tolerance of plaintiff is present right from the start of defendants' possession. Failure of plaintiffs' complaint to aver the key jurisdictional facts constitutive of unlawful detainer is fatal to their cause as the court cannot acquire jurisdiction over the case.

WHEREFORE, judgment is hereby rendered dismissing plaintiffs' complaint for lack of jurisdiction.

SO ORDERED."

Aggrieved from the said order, the spouses Alfredo elevated the same before the RTC citing the case of Javelosa v. CA, G.R. No. 124292, December 10, 1996 stating that an allegation in the complaint that petitioner was unlawfully withholding possession of the land from them is sufficient to make out a case for unlawful detainer.

The RTC in the assailed Order[6] dated January 22, 2013, reversed the order of the MTCC stating that the complaint clearly makes out a case for unlawful detainer because as title holders, spouses Alfredo are entitled to be placed in possession over Lot 10-U. The fallo of the RTC Decision, reads:

"WHEREFORE, foregoing considered, the assailed Order dated August 15, 2012 of the MTCC, San Carlos City, Negros Occidental is hereby REVERSED and SET ASIDE. The Municipal Trial Court in Cities, San Carlos City, Negros Occidental is DIRECTED to proceed with the summary proceedings for the unlawful detainer case in Civil Case No. 1568.

SO ORDERED."[7]

Thus, petitioner Bono, on appeal before Us raised the following assignment of errors, to with:

"I. THE REGIONAL TRIAL COURT MAY HAVE COMMITTED A REVERSIBLE ERROR IN DECLARING THAT THE LOWER COURT HAS JURISDICTION OVER THE EJECTMENT CASE (CIVIL CASE NO.1568) WHEN IT IS APPARENT THAT THE COMPLAINT DID NOT SATISFY THE JURISDICTIONAL REQUIREMENT OF A VALID CAUSE FOR UNLAWFUL DETAINER; AND

II. THE REGIONAL TRIAL COURT MAY HAVE COMMITTED A REVERSIBLE ERROR IN GRANTING THE RESPONDENTS' APPEAL WHEN IT IS APPARENT THAT THE ALLEGATIONS IN

THE COMPLAINT DO NOT CONTAIN ANY AVERMENT OF FACT THAT WOULD SUBSTANTIATE THEIR CLAIM THAT THEY PERMITTED OR TOLERATED THE OCCUPATION OF THE PROPERTY BY PETITIONER (AND THE OTHER DEFENDANTS).”[8]

Our Ruling

In the instant appeal, petitioner questions the ruling of the RTC when it pronounced that MTCC had jurisdiction over the unlawful detainer case filed by the spouses Alfredo against her. Accordingly, the complaint failed to state their supposed acts of tolerance which was present from the incipient or that it failed to contain any allegation of their overt acts showing that they have permitted or tolerated defendants' stay on the premises. Since the procedure is summary in nature, it becomes necessary to allege the said facts in order to vest jurisdiction to the MTCC.

We agree.

Unlawful detainer is a summary action for the recovery of possession of real property. This action may be filed by 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. In unlawful detainer, the possession of the defendant was originally legal, as his possession was permitted by the plaintiff on account of an express or implied contract between them. However, the defendant's possession became illegal when the plaintiff demanded that the defendant vacate the subject property due to the expiration or termination of the right to possess under the contract, and the defendant refused to heed such demand. A case for unlawful detainer must be instituted one year from the unlawful withholding of possession.[9]

Due to the summary nature of the proceedings, allegations in the complaint determine both the nature of the action and the jurisdiction of the court. In order to successfully vest the MTCC jurisdiction and make out a case for unlawful detainer, the complaint must specifically allege the facts constituting unlawful detainer.[10] A complaint for unlawful detainer is deemed sufficient if it recites the following:

- “(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.”[11]

In the instant case, while there was an allegation that petitioner's stay on Lot 10-U is merely tolerated, but the complaint fails to positively aver or specifically allege any overt act on the respondent's part indicative of permission for petitioner to occupy the land, or any showing of such fact.[12] There was no allegation as to when the entry was made or when the dispossession took place. As pronounced by the MTCC, a mere allegation in the complaint “3. That all the defendants together with members of their immediate families are occupying portions of said property at the mere tolerance of plaintiffs” fall short of the jurisdictional requirements set forth by the law. This omission to Our mind is fatal to respondents' case.

Jurisprudence dictates that to vest the court jurisdiction to effect the ejectment of an occupant, it is necessary that the complaint should embody such a statement of facts as brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face the court jurisdiction without resort to parol testimony.[13]

Without a doubt, the registered owner of real property is entitled to its possession. However, the owner cannot simply wrest possession thereof from whoever is in actual occupation of the property. To recover possession, he must resort to the proper judicial remedy and, once he chooses what action to file, he is required to satisfy the conditions necessary for such action to prosper.[14]

Thus, finding that the allegations in the complaint for unlawful detainer is insufficient to vest the MTCC jurisdiction, the instant appeal is hereby granted.

WHEREFORE, premises considered, the Order dated January 22, 2013 of the Regional Trial Court, 6[th] Judicial Region, Branch 58, San Carlos City, Negros Occidental is hereby REVERSED and SET ASIDE. The Order dated August 15, 2012 of the Municipal Trial Court in Cities, City of San Carlos, Region VI, dismissing the instant case is hereby REINSTATED.

SO ORDERED.

Delos Santos, J., Chairperson, and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 22-25, penned by the Honorable Danilo R. Amisola

[2] Rollo, pp. 71-73, penned by the Honorable Peter Z. Parco

[3] Rollo, pp. 66-68

[4] Rollo, pp. 41-43

[5] Rollo, pp. 71-73

[6] Rollo, pp. 22-25

[7] Rollo, p. 25

[8] Rollo, p. 9

[9] Jose v. Alfuerio, et al., G.R. No. 169380, November 26, 2012

[10] Jose v. Alfuerio, et al., G.R. No. 169380, November 26, 2012

[11] Corpuz v. Agustin, G.R. No. 183822, January 18, 2012

[12] Jose v. Alfuerio, et al., G.R. No. 169380, November 26, 2012

[13] Spouses Valdez, Jr., et al. v. CA, et al., G.R. No. 132424, May 2, 2006

[14] Carbonilla v. Abiera, et al., G.R. No. 177637, July 26, 2010

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