

**ELIZABETH BULAQUEÑA, HEREIN SUBSTITUTED BY HER DAUGHTER
MARGARITA CECILIA B. RILLERA, PETITIONER-APPELLANT, VS.
EDITHA CARNACETE AND ANY AND ALL PERSONS AND/OR GROUP
OF PERSONS ...**

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

THE CASE

This is a Petition for Review[1] under Rule 42 of the Revised Rules of Court, assailing the Decision[2] dated 28 June 2013 rendered by the Regional Trial Court (RTC), Branch 6, of Baguio City in Civil Case No. 7719-R [MTC 13481] for Unlawful Detainer, the decretal portion of which reads:

28 June 2013 Decision

“WHEREFORE, the appel is DENIED. The decision dated August 17, 2012 of the Municipal Trial Court in Cities, Branch 3, Baguio City in Civil Case No. 13481, in affirmed in toto.

SO ORDERED.”

THE FACTS

On 23 November 2010, the late Elizabeth Bulaqueña,[3] for herself and in behalf of her sister Wilhelmina Drummond,[4] filed a Complaint for Unlawful Detainer against her first cousin, respondent-appellee Edita Carnacete with the Municipal Trial Court in Cities (MTCC) of Baguio City. The case was docketed as Civil Case No. 13481 and eventually raffled to and heard by Branch 3 thereof. The Complaint reads:

“Plaintiff, through counsel, states that:

1. Plaintiff ELIZABETH BULAQUEÑA represents herself as well as WILHELMINA DRUMMOND, a co-owner of the property subject matter of the complaint;

xxx xxx xxx

3. Plaintiffs are the registered owners of a parcel of land located at #28 Lower P. Burgos, Baguio City, covered by Transfer Certificate of Title No. T-95898, T-95899, and T-95900 issued by the Register of Deeds for the City of Baguio xxx;

4. Plaintiffs, through their predecessor-in-interest constructed a residential house within their aforecited titled property particularly on the lot covered by TCT 95899. Initially, it was intended to be and was used as the home of their mother Dra. MARGARITA FERNANDEZ. Thereafter, it was used as a “staff house” for DR. NONA CATHERINA CARNACETE who then allowed defendant Ms. EDITHA CARNACETE and other individuals to reside therein. The stay of the defendants and any/all persons and/or groups of persons acting for and in her behalf in the residential house was tolerated by the Plaintiffs and/or their predecessors-in-interest out

of liberality and for purely humanitarian purposes;

5. The stay of the defendant is by mere “tolerance” as she was neither required to pay rentals, fees, compensation, or utilities for the use of the premises. Moreover, Plaintiffs have been paying for the taxes and other encumbrances over the house and over the lot being occupied by the Defendants;

6. Plaintiffs now desire to exercise their right of ownership over their properties including the residential house, thus on October 13, 2010, plaintiffs notified in writing the defendant to vacate the premises within seven (7) days from receipt thereof or on or before October 20, 2010 xxx;

7. While the letter was tendered, in a twist of fate, Ms. EDITHA CARNACETE acknowledged receipt of the Notice to Vacate by replying through a letter raising issues which were of “no moment” as to their unlawful possession of the property in question;

8. Defendants, despite notice for them to vacate the premises, and in disregard of said notice, failed, ignored, neglected, and refused and continue to fail, ignore, neglect and refuse to vacate the premises to the damage and prejudice of the plaintiffs;

xxx xxx xxx”

Respondent-Appellee Editha Carnacete, in her Answer,[5] denied the material allegations in the complaint and countered:

“2. The properties located at #28 P. Burgos, Baguio City, which is now covered by TCT No. T-95898, TCT No. T-95899, and TCT No. T-95900, are the ancestral property of the Jovens. It is in fact referred to as Villa Joven since time immemorial;

3. The Joven siblings are Pio Joven, Salvacion Joven, Luis Joven, Domingo Joven, Benigno Joven, and Margarita Joven Fernandez. These siblings have always treated Villa Joven as a family property which belongs to all of them. The whole Villa Joven property was a conjugal property of the late Pio and Romana Joven xxx;

4. The late Pio Joven purchased Villa Joven in the late 1940s. For reasons of convenience however, he had the properties registered under the name of her sister, Salvacion Joven These are registered as TCT No. T-258, TCT No. T-259, and TCT No. T-260;

xxx xxx xxxx

6. When the Joven siblings put up the school which is now called Baguio Central University (BCU) (formerly Lyceum of Baguio and before that, Joven, Inc.), Pio Joven agreed to allow the school to use a portion of the property for educational purposes. At present, the Villa Joven accommodates the Sto. Niño Hospital Building, the College of Medicine, the College of Nursing, the Pio Joven research center, two residential houses, the tomb of Salvacion Joven, and a small area is now reserved as a final resting place for Margarita Joven Fernandez;

7. Margarita Fernandez was primarily in charge with the school and she was allowed to occupy one of the residential houses within Villa Joven since she was the president of the school, and it would be to her convenience and advantage of the school if she is living within a proximate distance;

xxx xxx xxx

10. Defendant (Editha Carnacete) literally grew up at Villa Joven. She has always been very close to plaintiffs' mother, Dr. Margarita Fernandez. When defendant's mother died during the World War II, Margarita Fernandez raised the defendant like a daughter;

xxx xxx xxx

12. In the 1960s, the late Pio Joven xxx advised the defendant to occupy the subject house and lot as his bequest to the defendant, and told her that this will be for the use of the defendant and her family. Since then, the Joven family always treated the subject house and lot as “belonging” to the defendant;”

xxx xxx xxx

19. Defendant and her daughter Kookoo (Dr. Nona Catharina Natividad Joven Carnacete) stayed at the first floor of the former residence of the late Pio Joven, the same residence where Margarita Fernandez stays until today. The subject house and lot was then occupied by the former administrator of the hospital so the defendant cannot occupy the same. However, when the hospital administrator's employment was terminated, Margarita Fernandez told the defendant and her daughter to occupy the subject house and lot because after all, this was given to them by the late Pio Joven;

20. Defendant's daughter fervently assisted Margarita Fernandez with the school and the hospital. Defendant's daughter diligently helped save the school and the hospital and instituted reforms with the aim of making the school and the hospital more efficient and competent. xxx She also personally took care of Margarita Fernandez and her sister Salvacion Joven who needed full time medical attention;

21. The possession by the defendant of the subject property has always been lawful as a co-owner, being a member of the Joven family. The letter of the plaintiffs asking her to vacate cannot make illegal her possession of the property because the defendant has equal, if not superior rights over the specific house and lot which is now the subject of this case. Defendant was always deemed the owner of this house and lot as a bequest from Pio Joven. The Joven family recognizes this fact, except apparently, the herein plaintiffs;

22. It appears now that plaintiffs transferred the titles over the whole Villa Joven to their own names by virtue of a Deed of Donation. The transfer was however done at a time when Margarita Fernandez no longer had the legal capacity to enter into any legal transactions because of her medical condition. The medical condition of Margarita Fernandez was not unknown to the plaintiffs. In fact, on March 17, 2008, the plaintiffs sent out a Memorandum to the employees of the hospital advising them that Margarita Fernandez' signature was already illegible. This was because Margarita Fernandez was already suffering from senile dementia of the Binswanger's type, as will be shown by her medical records. Surprisingly, the Deed of Donation over Villa Joven was executed on March 29, 2008, or after the plaintiffs themselves acknowledged the incapacity of Margarita Fernandez;

xxx xxx xxx

24. (W)hen the late Salvacion Joven transferred the properties comprising of Villa Joven to Margarita Fernandez in 1987, this was done without any consideration, and only for the purpose of convenience since Margarita Fernandez was the person primarily in charge with the school and the hospital. This transfer, however, was never intended to take the property away from its intended use, which is for the benefit of the whole Joven family. The transfer also did not intend to take the subject house and lot from the defendant xxx.”

Preliminary Conference was held on 14 June 2012. The lower court, thereafter, directed the parties to submit their respective Position Papers.

On 17 August 2012, the MTCC, Branch 3 of Baguio City rendered a Decision[6] which dismissed petitioner-appellant's Complaint. The fallo reads:

“WHEREFORE, with the foregoing disquisition, plaintiff's complaint for unlawful detainer and damages is hereby dismissed for lack of cause of action.

Defendant's counterclaim is likewise dismissed for lack of basis.

SO ORDERED.”

Petitioner-appellant seasonably appealed the case to the RTC of Baguio City. The case was raffled to Branch 6 thereof.

On 28 June 2013, the RTC, Branch 6 of Baguio City issued the herein assailed Decision which affirmed the 17 August 2012 Decision of MTCC, Branch 3.

Hence, this Petition.

ASSIGNMENT OF ERRORS

Petitioner-appellant cites the following assignment of errors in the instant Petition:

<blockquote>I</blockquote>

<blockquote>THE LOWER COURTS ERRED IN DISMISSING THE COMPLAINT FOR UNLAWFUL DETAINER FOR LACK OF CAUSE OF ACTION.</blockquote>

<blockquote></blockquote>

<blockquote>II

</blockquote><blockquote>THE LOWER COURTS ERRED IN NOT FINDING THAT THE STAY OF RESPONDENTS IN THE PREMISES WAS BY MERE TOLERANCE.”</blockquote>

<blockquote></blockquote>

<blockquote>

THIS COURT'S RULING

We resolve.

Petitioner-appellant Margarita Cecila B. Rillera assails the 28 June 2013 Decision rendered by the RTC, Branch 6, of Baguio City. The said Decision affirmed the 17 August 2012 ruling of MTCC, Branch 3 of Baguio City which dismissed the Complaint for unlawful detainer (tolerance) on the ground of lack of cause of action. Petitioner-appellant contends:

“In finding lack of cause of action as the ground of dismissal of the appeal and in affirming the decision of the Municipal Trial Court, the court a quo reasoned out: xxx. The ratiocination of the court a quo is misplaced and contrary to existing facts and jurisprudence.

xxx xxx xxx

Then plaintiffs Wilhelmina and Elizabeth were the titled owners of the residential house and lot as evidenced by TCT 95899 issued in their names. Upon her (Wilhelmina) death, the said title was cancelled and transferred in the name of then remaining plaintiff, petitioner's mother under TCT No. 018-2012000407 of the Register of Deeds of Baguio City and by Tax Declaration ARP No. 2012-04-015-122688. As the titled owner and tax declarant of the subject property, petitioner's mother was undoubtedly entitled to the possession thereof since possession is merely an attribute of ownership. The withdrawal of tolerance previously extended to respondents was reason enough for her to regain possession from the present occupants.

xxx xxx xxx

Petitioner's predecessors in interest – her grandmother, Dr. Margarita Fernandez, her auntie – Wilhelmina Drummond, and her late mother Elizabeth Bulaqueña enjoyed and exercised in the premises full ownership and possession in the concept of owners until the temporary possession was given to respondents (her relatives) by virtue of benevolent tolerance and humanitarian reasons. This right xxx emanates from ownership and possession.”

This Court finds merit in petitioner-appellant's contention.

Section 1, Rule 70 on forcible entry and unlawful detainer of the 1997 Rules of Civil Procedure, as amended, reads:

"Section 1. Who may institute proceedings, and when. — Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or 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, or the legal representatives or assigns of any such lessor, vendor, vendee or other person may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs."

Under the above provision, there are two entirely distinct and different causes of action, to wit: (1) a case for forcible entry, which is an action to recover possession of a property from the defendant whose occupation thereof is illegal from the beginning as he acquired possession by force, intimidation, threat, strategy or stealth; and (2) a case for unlawful detainer, which is an action for recovery of possession from defendant whose possession of the property was inceptively lawful by virtue of a contract (express or implied) with the plaintiff, but became illegal when he continued his possession despite the termination of his right thereunder.[7]

To repeat, for clarity's sake, pertinent allegations in the instant Complaint read:

"3. Plaintiffs are the registered owners of a parcel of land located at #28 Lower P. Burgos, Baguio City, covered by Transfer Certificate of Title No. T-95898, T-95899, and T-95900 issued by the Register of Deeds for the City of Baguio xxx;

4. Plaintiffs, through their predecessor-in-interest constructed a residential house within their aforecited titled property particularly on the lot covered by TCT 95899. Initially, it was intended to be and was used as the home of their mother Dra. MARGARITA FERNANDEZ. Thereafter, it was used as a "staff house" for DR. NONA CATHERINA CARNACETE who then allowed defendant Ms. EDITHA CARNACETE and other individuals to reside therein. The stay of the defendants and any/all persons and/or groups of persons acting for and in her behalf in the residential house was tolerated by the Plaintiffs and/or their predecessors-in-interest out of liberality and for purely humanitarian purposes;

5. The stay of the defendant is by mere "tolerance" as she was neither required to pay rentals, fees, compensation, or utilities for the use of the premises. Moreover, Plaintiffs have been paying for the taxes and other encumbrances over the house and over the lot being occupied by the Defendants;

6. Plaintiffs now desire to exercise their right of ownership over their properties including the residential house, thus on October 13, 2010, plaintiffs notified in writing the defendant to vacate the premises within seven (7) days from receipt thereof or on or before October 20, 2010 xxx."

Petitioner-appellant's allegations in the Complaint clearly make a case for an unlawful detainer. 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.[8] Here, there is an allegation in the complaint that respondent-appellee Editha Carnacete's occupancy on the subject property is by virtue of petitioner-appellant and her predecessors' tolerance. Simply put, petitioner-appellant's cause of action for unlawful detainer (tolerance) springs from the said respondents-appellee's failure to vacate the questioned premises upon her demand sometime on 13 October 2010. Within one (1) year therefrom, or on 23 November 2010, petitioner-appellant filed the instant Complaint.

Furthermore, respondent-appellee Editha Carnacete acknowledges the fact that her occupation of the subject property is anchored mainly on the acquiescence or permission of petitioner-appellant's ascendants. In her Answer, she admitted:

“2. The properties located at #28 P. Burgos, Baguio City, which is now covered by TCT No. T-95898, TCT No. T-95899, and TCT No. T-95900, are the ancestral property of the Jovens. It is in fact referred to as Villa Joven since time immemorial;

3. The Joven siblings are Pio Joven, Salvacion Joven, Luis Joven, Domingo Joven, Benigno Joven, and Margarita Joven Fernandez. These siblings have always treated Villa Joven as a family property which belongs to all of them. The whole Villa Joven property was a conjugal property of the late Pio and Romana Joven xxx;

4. The late Pio Joven purchased Villa Joven in the late 1940s. For reasons of convenience however, he had the properties registered under the name of her sister, Salvacion Joven. These are registered as TCT No. T-258, TCT No. T-259, and TCT No. T-260;

xxx xxx xxxx

12. In the 1960s, the late Pio Joven xxx advised the defendant to occupy the subject house and lot as his bequest to the defendant, and told her that this will be for the use of the defendant and her family. Since then, the Joven family always treated the subject house and lot as “belonging” to the defendant;”

xxx xxx xxxx

19. Defendant and her daughter Kookoo (Dr. Nona Catharina Natividad Joven Carnacete) stayed at the first floor of the former residence of the late Pio Joven, the same residence where Margarita Fernandez stays until today. The subject house and lot was then occupied by the former administrator of the hospital so the defendant cannot occupy the same. However, when the hospital administrator's employment was terminated, Margarita Fernandez told the defendant and her daughter to occupy the subject house and lot because after all, this was given to them by the late Pio Joven;

xxx xxx xxxx

24. (W)hen the late Salvacion Joven transferred the properties comprising of Villa Joven to Margarita Fernandez in 1987, this was done without any consideration, and only for the purpose of convenience since Margarita Fernandez was the person primarily in charge with the school and the hospital. This transfer, however, was never intended to take the property away from its intended use, which is for the benefit of the whole Joven family. The transfer also did not intend to take the subject house and lot from the defendant xxx.”
(Emphasis supplied)

Well settled is the rule that a person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is bound by an implied promise that he will vacate the same upon demand, failing which a summary action for ejectment is the proper remedy against him.[9] His status is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner.[10]

Withal, the evidence proves that after the subject property (Villa Joven) then covered by Transfer Certificate of Title (TCT) Nos. T-95898, TCT No. T-95899, and TCT No. T-95900 were purchased by the late Pio Joven in the late 1940s, he had the parcels of land registered in the name of his sister, Salvacion Joven. A residential/staff house, among others, was thereafter built over the land covered by TCT No. T-95899. Pio Joven subsequently advised their cousin, herein respondent-appellee Editha Carnacete to stay at the said residential/staff house. In 1967, Editha Carnacete got married, relocated, and established residence in Zamboanga with her husband. In the meantime, Salvacion Joven transferred ownership of Villa Joven to Dr. Margarita Joven Fernandez in 1987. In

2002, Editha Carnacete, together with her daughter, Dr. Nona Catharina Natividad Joven Carnacete went back to Baguio and were allowed anew to reside in Villa Joven. On 29 March 2008, Dr. Margarita Joven Fernandez executed a Deed of Donation involving Villa Joven and ceded the property to her daughters, Wilhelmina Fernandez-Drummond and Elizabeth Fernandez-Bulaqueña. When Wilhelmina Fernandez-Drummond passed away, TCT Nos. T-95898, TCT No. T-95899, and TCT No. T-95900 were cancelled and ownership over the said parcels of lot were consolidated in favor of Elizabeth Fernandez-Bulaqueña under TCT Nos. 018-2012000406, 018-2012000407, and 018-2012000419. On 27 September 2012, Elizabeth Fernandez-Bulaqueña died and herein petitioner-appellant Margarita Cecila B. Rillera inherited Villa Joven. Clearly, regardless of the length of time which elapsed, it cannot be denied that respondent-appellee Editha Carnacete along with her daughter's stay in the subject property had always been by virtue of the Jovens' benevolence and tolerance. When the late Elizabeth Fernandez-Bulaqueña demanded that respondent-appellee Editha Carnacete vacate the residential/staff house on 13 October 2010 and when the latter refused to do so, she (Editha Carnacete) became a deforciant and an illegal occupant of Villa Joven.

This Court is well-aware of the legal precept that 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.[11] However, inasmuch as the question of ownership is inextricably linked to the determination of the issue of possession in the case at bench, the issue of ownership should likewise be ruled upon herein, albeit provisionally.

The Supreme Court has consistently upheld the registered owners' superior right to possess the property in unlawful detainer cases.[12] It is an age-old rule that the person who has a Torrens Title over a land is entitled to its possession.[13] It has repeatedly been emphasized that when the property is registered under the Torrens system, the registered owner's title to the property is presumed legal and cannot be collaterally attacked, especially in a mere action for unlawful detainer.[14] It has even been held that it does not even matter if the party's title to the property is questionable.[15]

The TCTs (TCT Nos. 018-2012000406, 018-2012000407, and 018-2012000419) of petitioner-appellant are, therefore, evidence of indefeasible titles over the property and, as the holder thereof, she is entitled the said property's possession as a matter of right. The claim of respondent-appellee Editha Carnacete that the Joven family had always treated her as co-owner of the subject parcels of land, vis-a-vis, the residential/staff house is not enough to offset petitioner-appellant's right as registered owner. Again, it must be underscored, however, that this adjudication on ownership is merely provisional and would not bar or prejudice the action which may be instituted by respondent-appellee Editha Carnacete involving the title over the property in issue..[16]

WHEREFORE, the Petition is GRANTED. This Court hereby rules as follows:

- 1) The Decision dated 28 June 2013 rendered by the Regional Trial Court, Branch 6, of Baguio City is REVERSED and SET ASIDE;
- 2) Editha Carnacete and all persons/group claiming rights under her are hereby ordered to immediately VACATE and SURRENDER PEACEFULLY in favor of Margarita Cecilia Rillera the residential house and lot covered by TCT No. 018-2012000407 of the Register of Deeds of Baguio City;
- 3) Editha Carnacete and all persons/group claiming rights under her are directed to PAY Margarita Cecilia Rillera the sum of One Thousand Pesos (P1,000.00) as reasonable rental for the use and occupation of the subject premises beginning from the filing of the Complaint for Unlawful Detainer on 23 November 2010 until they vacate the premises;

4) The prayer for attorney's fees, litigation and actual expenses is DENIED for lack of sufficient basis.

SO ORDERED.

Veloso, V.S.E., (Chairperson) and Antonio-Valenzuela, N.G., JJ., concur.</blockquote

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<blockquote[1] Rollo, pp. 11-24

[2] Id., pp. 26-31

[3] Herein substituted by her daughter Margarita Cecilia B. Rillera

[4] Now deceased

[5] Id., pp. 64-74

[6] Id., pp. 32-47

[7] Santos v. Spouses Ayon (G.R. No. 137013, 06 May 2005)

[8] Jimenez vs. Patricia, Inc., (G.R. No. 134651, 18 September 2000); Sumulong vs. Court of Appeals, (G.R. No. 108817, 10 May 1994); Pangilinan vs. Aguilar, 43 SCRA 136

[9] Arambulo v. Gungab, 508 Phil. 612, 621-622 (2005), citing Boy v. Court of Appeals, 471 Phil. 102, 114 (2004)

[10] Lao v. Lao, (G.R. No. 149599, 16 May 2005)

[11] Optimum Development Bank v. Spouses Jovellanos (G.R. No. 189145, 04 December 2013)

[12] Sps. Pascual v. Sps. Coronel, 554 Phil. 351 (2007)

[13] Corpuz v. Sps. Agustin, (G.R. No. 183822, 18 January 2012)

[14] Salandanan v. Sps. Mendez, (G.R. No. 160280, 13 March 2009)

[15] Id.

[16] See MERALCO v. Heirs of Spouses Deloy, (G.R. No. 192893, 05 June 2013)</blockquote

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