

**GUILLERMO T. TAPINIT REPRESENTED BY MARIO R. TAPINIT,
PETITIONER, VS. MA. LUISA S. GUZMAN, EUSEBIO “EBIONG”
ABUCAY, HELEN OLIMBA AND DONATO DAVIN, RESPONDENTS.**

Ponente: INTING, J.

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INTING, J.:

Before Us is petitioner’s Petition for Review under Rule 42 of the Rules of Court assailing the Decision[1] dated February 27, 2009 of the Regional Trial Court (hereinafter court a quo), Branch 21, Kapatagan, Lanao del Norte in Civil Case No. 21-(424)-318 which affirmed the Decision[2] dated August 22, 2008 of the Municipal Circuit Trial Court of Lala-Salvador, Lanao del Norte.

The facts of the case are as follows:

Guillermo Tapinit (Guillermo for brevity) is the registered owner of a parcel of land (Lot No. 25, Bsd-12-000953 (OLT), located at Maranding, Lala, Lanao del Norte, with a total area of 14, 514 square meters and covered by Transfer Certificate of Title (TCT) No. EP-1169[3] under Emancipation Patent No. A-166-88. The ownership of the lot was said to be derived from the mother lot covered by Original Certificate of Title (OCT) No. P-256[4] and registered in the name of the late Ambrocio A. Saavedra. Ma. Luisa S. Guzman (Luisa for brevity) is one of the children of Ambrocio Saavedra.

Guillermo alleged that in 1985, he tolerated Luisa to construct a mechanical dryer on a more or less 1.050 square meter portion of Lot No. 25. Since then until the present, Luisa has remained in such kind of possession by tolerance without any lease agreement, either express or implied. Also, co-defendants Eusebio “Ebiong” Abucay, Helen Olimba and Donato Davin have also been in possession of the other portions of Lot No. 25 of about 588 sq. meters, 496 sq. meters and 330 sq. meters, respectively. They constructed their respective houses since 1990 up until the present, upon the tolerance of Guillermo and without any lease agreement, either expressly or impliedly. Guillermo further alleged that prior to the issuance of TCT No. EP-1169 in 1988, and even after respondents started in possession by tolerance of the subject land, he had been in possession of Lot No. 25 by planting and harvesting corn crops thereon.

On June 6, 2007, petitioner sent demand letters to the respondents for them to vacate the portions of Lot No. 25 that are in their possession. However, respondents refused to vacate the area and remove their improvements thereon.

Consequently, petitioner herein represented[5] by Mario Tapinit filed a Complaint before the MCTC for unlawful detainer against herein respondents. In their Answer, respondents claim that the original owner of the subject land was Ambrosio Saavedra. In 1975, a portion of the land not covered by PD 27[6] was sold to a certain Felix Saavedra who obtained TCT No. T-5,961 in the same year. Felix Saavedra gave permission to Luisa Guzman to construct a solar dryer building within his property. Also, Abucay built his house in 1972, Olimba in 1980 and Davin’s parents in 1968. Respondents also allege that the original farmer beneficiary of DAR Lot No. 25 was Elegario Villarino with an awarded area of 0.98 hectares. Tapinit acquired the right of Mr. Villarino and

subsequently acquired an emancipation patent in 1988.

On August 22, 2008, the MCTC rendered a Decision against herein petitioner the dispositive of which provides:

WHEREFORE, in view of the foregoing, judgment is rendered in favor of the defendants and against the plaintiff who failed to prove his case with preponderance of evidence. This case is hereby DISMISSED. Likewise, counterclaim of the defendants is hereby DISMISSED, for this court cannot punish a litigant for exercising his right to litigate in good faith.

SO ORDERED.

The MCTC ruled:

Xxx

With the evidence presented, the Court finds that the alleged tolerance by the plaintiff is unsubstantiated or was not duly proven. As to defendant Ma. Luisa S. Guzman, there is no tolerance to speak of when she constructed the mechanical and/or solar driers, because she was already in possession of the land even before the issuance of EP-1156. As to defendants Eusebio Abucay, Helen Olimba and Donato Davin, plaintiff admitted that it was spouses Guzman who induced them to construct their houses.

The Court carefully examined Exhibit 4, 4-A of the defendants to determine of how the plaintiff acquired the land before the issuance of EP-1156, which covered RICELAND ONLY. The Court did not find the name of Guillermo Tapinit but only the name of Eligario Villarino, the original occupant or the predecessor-in-interest of the plaintiff (Guillermo Tapinit), which is not disputed. Xxx

Both plaintiff and defendant Maria Luisa S. Guzman are now armed with their respective titles over the land in dispute and the issue of tolerance was not duly proven as TCT No. T-5961 was issued very much ahead of EP-1156, although the former was issued in the name of Felix Saavedra but the Court can consider him as the predecessor in interest of Ma. Luisa S. Guzman xxx

Aggrieved, herein petitioner interposed an appeal before the RTC. On February 27, 2009, the court a quo rendered a Decision affirming the MCTC. The fallo reads:

WHEREFORE, in view of the foregoing considerations, the Decision of the court a quo dated 22 August 2008 is hereby AFFIRMED in toto, with costs against the plaintiff-appellant.

SO ORDERED.

Hence, this petition.

Petitioner now comes before Us raising the following assignment of errors[7]:

I.

THE APPELLATE COURT COMMITTED REVERSIBLE ERROR IN ARBITRARILY DISREGARDING THE CLEAR ADMISSION OF RESPONDENTS THAT THEIR POSSESSION OF THE DISPUTED LAND IS BY MERE TOLERANCE.

II.

THE APPELLATE COURT COMMITTED REVERSIBLE ERROR IN COMPLETELY AND ARBITRARILY DISREGARDING THE CLEAR AND CONVINCING EVIDENCE OF PETITIONER THAT IT IS HOWEVER PETITIONER HIMSELF, NOT ANY OTHER ONE, WHO GAVE THE TOLERANCE FOR RESPONDENTS TO POSSESS AND OCCUPY THE DISPUTED LAND.

III.

THE APPELLATE COURT COMMITTED REVERSIBLE ERROR IN AFFIRMING IN TOTO THE DECISION OF THE COURT A QUO WHICH ATTACKED COLLATERALLY PETITIONER'S TORREN'S TITLE.

IV.

THE APPELLATE COURT COMMITTED REVERSIBLE ERROR IN NOT RULING PROVISIONALLY THAT PETITIONER IS THE OWNER OF THE DISPUTED PORTIONS OF LOT 25 AND HENCE, IS ENTITLED TO ITS POSSESSION THROUGH AN ACTION OF UNLAWFUL DETAINER.

IV.

THE APPELLATE COURT COMMITTED REVERSIBLE ERROR IN FINDING THAT FELIX SAAVEDRA IS THE PREDECESSOR-IN-INTEREST OF RESPONDENT MA. LUISA S. GUZMAN BECAUSE THERE IS NO SUBSTANTIAL EVIDENCE TO PROVE IT.

Our Ruling

The petition is without merit.

Ejectment cases—forcible entry and unlawful detainer—are summary proceedings designed to provide expeditious means to protect actual possession or the right to possession of the property involved.[8] The only question that the courts resolve in ejectment proceedings 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. It does not even matter if a party's title to the property is questionable. For this reason, an ejectment case will not necessarily be decided in favor of one who has presented proof of ownership of the subject property.[9]

In the case at bar, it must be noted that petitioner anchors his claim on the disputed land - Lot 25, through TCT No. EP-1169 registered under his name and issued in 1988. The evidence also shows that the original beneficiary of Lot 25 was Elegario Villarino whose land was with an area of 0.98 hectares. However, when Lot 25 was issued in the name of petitioner, the area covered is 14, 514 sq. m. These facts were not disputed by petitioner, thus, it is safe to say that petitioner's predecessor-in-interest was Elegario Villarino. On the other, respondents anchor their right to possess over the subject land through TCT No. T-5691, registered under the name of Felix Saavedra, their alleged predecessor-in-interest.

Petitioner asseverates that respondent Luisa occupied the subject lot by his mere tolerance, prior to the issuance of TCT No. EP-1169. It is worth noting, however, that petitioner's title was issued only in 1988 while TCT No. T-5691 in the name of Felix Saavedra was issued very much ahead in 1975. Petitioner cannot now therefore claim that prior to the issuance of his title, he had tolerated or assented to the occupation of respondent Luisa since at that time, petitioner still did not have a right over the subject lot. As such, there is no tolerance to speak of when Luisa constructed the mechanical and/or solar dryers considering that she was already in possession of the land even before the issuance of TCT No. EP-1169. As regards the other respondents Abucay, Olimba and Davin, petitioner admitted that it was Luisa and the latter's spouse who induced the respondents to build their house on the subject land and not because of the tolerance of petitioner.

To justify an action for unlawful detainer, it is essential that the plaintiff's supposed acts of tolerance must have been present right from the start of the possession which is later sought to be recovered.[10] Also, it must be shown that the possession of the defendant was originally legal and his possession was permitted by the owner through an express or implied contract.[11] In the instant case, petitioner herein cannot even be considered the owner of the subject land at the time respondents started occupying it. Even the geodetic engineers hired by the parties submitted different findings, such that one finding revealed that the mechanical and/or solar dryers as well

as the houses of respondents overlapped with a portion of Lot 25, while another finding showed that there was no overlapping over petitioner's property.[12] With these, petitioner's right of possession over the subject land was not sufficiently proven and supported. It would be unjust for Us to deprive respondents of their possession over a property that they have held for more than twenty-two (22) years before the case was filed in 2007, by means of a summary proceeding, simply because the petitioner used the word "tolerance" without sufficient allegations or evidence to support it.

Neither can be the decision of the court a quo be considered a collateral attack on the title of the petitioner. Respondents do not dispute the existence of TCT No. EP-1169 in the name of petitioner. Respondents only claim that the particular lot occupied by them is not part of that owned by petitioner and that their possession over the subject lot is not through the consent or tolerance of petitioner.

As to petitioner's contention that there was no substantial evidence to prove that Felix Saavedra is the predecessor-in-interest of respondent Luisa, We disagree. Respondents were able to present TCT No. T-5,961 in the name of Felix Saavedra claiming that the latter was the one who gave them the permission to occupy the subject land, and no contrary claim was made by Felix Saavedra or his heirs. Moreover, whether or not respondents are successors-in-interest of Felix Saavedra is irrelevant already. The focal issue is that petitioner was not able to substantially prove his allegations that it was him who has the right to occupy the disputed lot or that respondents' possession thereto is upon his mere tolerance.

The above ruling notwithstanding, it may also be emphasized that Civil Case No. 21-(424)-318 is an action for unlawful detainer, which is an accion interdictal. Hence, the issue is limited to the right to physical possession or possession de facto only, independent of any claim of ownership that either party may set forth in his or her pleadings, albeit the court has the competence to delve into and resolve the issue of ownership but only to address the issue of priority of possession.[13] A judgment in an unlawful detainer case disposes of no other issue than possession and establishes only who has the right of possession, but by no means constitutes a bar to an action for determination of who has the right or title of ownership.[14]

WHEREFORE, the petition is hereby DENIED. The Decision dated February 27, 2009 of the Regional Trial Court, Branch 21, Kapatagan, Lanao del Norte is AFFIRMED.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

[1] Rollo, pp. 38-41, penned by Hon. Judge Jacob T. Malik

[2] Rollo, pp. 43-57, penned by Hon. Judge Bernarda Bantiles-Villanueva

[3] Rollo, p. 61

[4] Rollo, pp. 62-64

[5] Rollo, p.58

[6] Presidential Decree No. 27, "Decreeing The Emancipation Of Tenants From The Bondage Of The Soil, Transferring To Them The Ownership Of The Land They Till And Providing The Instruments And Mechanism Therefor"

[7] Rollo, pp. 9-10

- [8] Corpuz v. Agustin, G.R. No. 183822, January 18, 2012
- [9] Supra
- [10] Valdez v. Court of Appeals, G.R. No. 132424, May 2, 2006
- [11] Jose v. Alfuerio, G.R. No. 169380, November 26, 2012
- [12] MCTC Decision, Rollo, pp. 53-55
- [13] Cano v. Usi, G.R. No. 192486, November 21, 2012
- [14] Custodio v. Corrado, G.R. No. 146082, July 30, 2004

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