

**RUBEN FERNANDO, PETITIONER, VS. JOSEFINA, ANDREA, CARMEN,
AND LOURDES, ALL SURNAMED BACANI, REPRESENTED BY THEIR
ATTORNEY-IN-FACT, ROSARIO GUANZON, RESPONDENTS. D E C I S I
O N**

Ponente: BARRIOS, J.

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BARRIOS, J.:

The petitioner Ruben Fernando (or Fernando) was sued by Josefina, Andrea, Carmen and Lourdes, all surnamed Bacani (or the Bacanis) for Ejectment and Damages before the Municipal Trial Court of Lubao, Pampanga (or MTC). The judgment was rendered adverse to the Bacanis who appealed to the Regional Trial Court (or RTC) of Guagua, Pampanga.

The RTC reversed the MTC ruling, hence this appellate recourse to Us, this time by Fernando.

In their Complaint, the Bacanis alleged that they are the registered owners of the 288 square meters Lot No. 16-K in Barrio San Roque, Dau, Lubao, Pampanga, covered by Transfer Certificate of Title 235180-R. For several years, the Bacanis permitted Fernando to occupy this for free, on the condition that he would vacate it upon demand. In November 1999 demand to vacate and restore was made by the Bacanis because they were going to use it, but this was futile. Hence, the filing of the said suit.

In his Answer, Fernando denied all the material allegations in the complaint, and averred as his special and affirmative defenses. For one, the subject lot is an agricultural land covered by the Comprehensive Agrarian Reform Program or Republic Act No. 6657. Without the approval of the Department of Agrarian Reform (or DAR), the Bacanis converted this into a residential land thus depriving him of the land he is tilling and cultivating. Fernando alleged that as tenant-beneficiary, he could not be ejected. Also, theorizing that the case is an agrarian dispute, Fernando averred lack of jurisdiction over the subject matter and nature of the action. Furthermore, assuming that it is not an agrarian dispute, Bacanis' proper recourse is to file an action for recovery of possession or accion reivindicatoria and not a summary action for ejectment. Finally, Fernando assailed the authority of Rosario Guanzon, the attorney-in-fact, to file the suit in behalf of the Bacanis.

On May 20, 2002, the MTC rendered its Decision decreeing that:

WHEREFORE, after judicious consideration thereof, preponderantly the scale of justice is tilted in favor of the defendant and against the plaintiff and therefore, WITHOUT PREJUDICE, this case is hereby DISMISSED for lack of merit.

No pronouncement as to cost.

SO ORDERED. (p. 55, rollo)

But on appeal this was reversed and set aside by the RTC in the now assailed Decision dated January 21, 2003, the decretal portion of which reads:

WHEREFORE, the assailed decision dismissing the case is hereby reversed and set aside and another (is) entered ordering the defendant to vacate the premises covered by TCT No. 235180-R of the Register of Deeds of Pampanga and relinquish and deliver the possession thereof to the plaintiffs.

No cost.

SO ORDERED. (p. 72, rollo)

A Motion for its reconsideration was filed by Fernando but this floundered too in the Order dated May 6, 2003.

Hence this petition for review with Fernando assigning as the lone error committed by the RTC that:

THE HONORABLE REGIONAL TRIAL COURT ERRED IN DECIDING NOT THE ISSUE OF PHYSICAL POSSESSION BUT THE ISSUE OF OWNERSHIP WHICH IS EXPRESSLY BANNED IN EJECTMENT CASES, AND IN DECLARING THAT PLAINTIFFS / APPELLANTS, BEING THE ABSOLUTE OWNERS OF THE LOT IN QUESTION, ARE ENTITLED TO ITS POSSESSION AS AN ATTRIBUTE OF OWNERSHIP. (p. 9, rollo)

Indeed the only issue for resolution in ejectment cases is the question of who is entitled to the physical or material possession of the property in dispute. This is independent of any claim of ownership set forth by any parties. However, if the question of ownership is inextricably linked to the issue of possession, the court may pass on the question of ownership solely to determine the issue of possession (National Union Growers Cooperative Marketing Association vs. Lo, G. R. No. 141493, July 28, 2004). The RTC cannot thus be said to have overreached or erred in passing on the question of ownership to determine the issue possession.

Fernando harps on the admission made by the Bacanis that he has been in possession of the lot for a long time and argues that this prior possession should be taken in his favor. Unfortunately for Fernando, prior possession is relevant only in forcible entry but not in unlawful detainer which involves the unjust refusal of a previously rightful possessor to turn over the subject premises once its possession has ceased to be legal (National Union Growers Cooperative Marketing Association vs. Lo, G. R. No. 141493, July 28, 2004). Thus, 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). Accordingly, Fernando's possession of the lot does not by that fact alone entitle him to remain in its possession. The RTC therefore did not err in adjudicating the issue of possession in favor of the Bacanis.

Fernando's claim that he is a tenant-beneficiary and so cannot be ejected, also deserves a niggardly consideration. The requisites of a tenancy relationship are as follows: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent by the landowner; (4) the purpose is agricultural production; (5) there is personal cultivation, and (6) there is sharing of the harvests. All these requisites are necessary to create a tenancy relationship, and the absence of one or more requisites will not make the alleged tenant a de jure tenant (Carrascoso vs. Court of Appeals, G. R. Nos. 123672 & 164489, Dec. 14, 2005). Fernando alleged that he is the tenant of the Bacanis and the litigated area is his homelot. But this claim is not supported by evidence, and allegation is not synonymous to proof. A party has the burden of proof to establish his claim by convincing evidence (Rivera vs Roman, G. R. No. 142402, Sept 20, 2005). He failed to show any juridical tie with the Bacanis and the subject lot so as to make this case an agrarian dispute. He failed to show any corroborating evidence, such as a leasehold contract, a receipt of rental or share, or a certification from the Department of Agrarian Reforms that he is a registered or recognized tenant.

Documents that he did submit are duds. The certification of the Barangay Captain merely states that he is an occupant/possessor of a certain land belonging to the Valenzuela/Bacani families. It did not specify which land

nor say that Fernando is a tenant thereof. The letter of the Municipal Agrarian Reform Officer to Rosario Guanzon only states that her property is covered by the agrarian reform program. It did not state that Fernando is one of the tenants (p. 70, rollo).

In fine, the Bacanis have adequately proven that they are the registered owners of the subject land and entitled to possess it. The age-old rule is that the person who has torrens title over a land is entitled to possession thereof (*Javelosa vs. Court of Appeals*, G. R. No. 124292, December 10, 1996, 265 SCRA 493). Except for his bare and unconvincing claim that he is the actual tiller of the land, Fernando has pointed to no right to justify his continued possession.

This Court has consistently held that those who occupy the land of another at the latter's tolerance or permission, without any contract between them, are necessarily bound by an implied promise that the occupants will vacate the property upon demand (*Macasaet vs. Macasaet*, G. R. No. 154391-92, September 30, 2004). The possession of the property must perforce be restored to the Bacanis.

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.
SO ORDERED.

Guariña, III and Tagle, JJ., concur.

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