

**ALEJO B. ARPON AND JORGE B. ARPON, PLAINTIFFS-PETITIONERS,
VS. ROGELIO “BOLONTOY” ALTAGRACIA AND TITO CORNELIO, AND
ALL PERSONS CLAIMING OR DERIVING RIGHTS UNDER THEM,
DEFENDANT...**

Ponente: QUIJANO-PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c53ef6e069cb/>

QUIJANO-PADILLA, J.:

This appeal[1] seeks to assail the Decision[2] of the Regional Trial Court, Branch 36, Carigara, Leyte, dated February 8, 2012 in Civil Case No. M-BAR-11-2015-CV-ROO-AP which reversed the Decision[3] of the Municipal Trial Court of Barugo, Leyte in Civil Case No. M-BAR2010-002-CR dated April 27, 2011, in the matter of Forcible Entry with Prayer for Temporary Restraining Order, Injunction and Damages.

The Version of the Plaintiffs-Petitioners[4]

The facts as narrated in the plaintiffs-petitioners' brief are as follows:

This case originated from a Complaint for Forcible Entry with prayer for Issuance of Writ of Preliminary Injunction filed before the Municipal Trial Court of Barugo, Leyte, by herein plaintiffs-petitioners claiming therein that they are the owners of a parcel of land located in Brgy. Santarin, Barugo, Leyte, which land is more particularly bounded and described as Cadastral Lot No.944, PLS 1061-D under Tax Declaration No. ARP No. 08-050035-0024 (R13), with an area of 666.90 square meters, more or less, with an assessed value of P31,343.00.

Plaintiffs-petitioners Alejo B. Arpon and Jorge B. Arpon alleged that on March 21, 2010, on or about 7:00 o'clock in the morning, defendants-respondents through force, violence, threat, strategy or stealth and armed with unsheathed bladed sharp bolos entered the aforesaid property in question and maliciously destroyed and cut the plaintiffs-petitioners' plants, fruit bearing trees and root crops such as dalandan, santol, caimito, banana, avocado, langka, malunggay, cassava, camote and all other improvements in the said land, with the assistance of their hired laborers. Moreover, said defendants-respondents even placed a sign of “No Trespassing” over the property and is now currently building a house of light materials thereat, to the plaintiffs-petitioners great damage and prejudice.

They declared that the defendants-respondents Rogelio Altagracia and Tito Cornelio claimed in their Answer that herein defendant-respondent Rogelio M. Altagracia, is a co-owner by succession of the subject parcel of land as he inherited the same from his father, Vicencio Astorga Altagracia, who was one of the children of the late spouses Angel Altagracia and Agatona-Astorga Altagracia. The latter, in turn, was a daughter of the original owners of the subject parcel of land, the late spouses Catalino Astorga and Cirila Benosa, who were prominent residents of Brgy. Santarin, Barugo, Leyte.

Apparently, there are now two parcels of land covered by the latest tax declaration, both with an area of 333 square meters each, more or less. Moreover, the declared owner is “Silvestre Panis vs. Agaton Astorga”.

They narrated that during the lifetime of Vicencio Astorga Altagracia, he exercised rights of dominion over the parcel of land he inherited from his mother, Agatona Astorga-Altagracia.

Moving on, they recalled that in the early part of the 1990 decade, the aforesaid utilization by the public of Lot No. 944 was discontinued and full possession thereof was restored to Vicencio A. Altagracia.

They further declared that after the death of Vicencio Altagracia on August 12, 2007, his children, specifically, Rogelio A. Altagracia, had succeeded to the exercise of the rights of dominion over their parcel of land and up to the present continually occupies and exercises jus possidende.

Then they stated that a Commissioner's Report was prepared and submitted by geodetic Engr. Salvador Quilaquil, a court appointed Commissioner. The result thereof is contained in a Commissioner's Report. After all efforts to reach settlement failed, the pre-trial proceeded and a Pre-Trial Order was issued.

Thereafter, the Position Papers for the plaintiffs-petitioners and defendants-respondents were submitted.

Version of the Defendants-Respondents[5]

The facts as succinctly narrated in the defendants-respondents' brief are as follows:

Defendants-respondents maintained that Vivencio Astorga Altagracia, the father of defendant-respondent Rogelio Altagracia, was one of the children of the late spouses, Angel Altagracia and Agatona Astorga-Altagracia. As reflected in the latest Tax Declaration of the subject lot, Lot No. 944 (Exhibit "A" of the plaintiffs-petitioners), the declared owner thereof is PANIS, SILVESTRE VS. ASTORGA, AGATONA which only means that there is a controversy over the ownership of the subject Lot No. 944.

Moreover, defendants-respondents averred that the "administrator/beneficial user" indicated in the latest Tax Declaration of Lot No. 944 (Exhibit "A" of the plaintiffs-petitioners) is "ROGELIO ALTAGRACIA", one of the defendants-respondents in the instant case.

They declared that the original predecessors-in-interest of herein defendant-respondent, Rogelio A. Altagracia, were the late spouses Catalino Astorga and Cirila Benosa, who were prominent settlers of Barangay Santarin, Barugo, Leyte.

They also asserted that the parcel of land owned by the Altagracias was first declared for taxation purposes on November 1, 1913, under the name of Ricardo Macabenta as the latter was in possession thereof at the time of its first survey. As proof thereof, they attached certified true-copy of Tax Declaration No.7517 which was marked during the trial as Exhibit "2" of defendants-respondents.

Moving forward, they narrated that later, Mr. Ricardo Macabenta executed a written acknowledgment that he is only an administrator of the true owner of the land, Agatona A. Altagracia. Thereafter, a Transferor's and Transferee's Affidavit, dated December 11, 1970, was executed to formally transfer the name of the declared owner to Agatona A. Altagracia.

As appearing in tax declaration no. 7517, the boundaries of the land of Agatona A. Altagracia are as follows:

North: Calle sin nombre
East: Silvestre Asis
South: Felomino Asis
West: Magno Guarino

On the other hand, it appears that Silvestre Panis, the alleged predecessor-in-interest of the plaintiffs-petitioners, owned a separate and distinct parcel of land which adjoined the Altagracia's property. As shown in T.D. no. 8618, the boundaries thereof are as follows:

North: Con la calle sin nombre
East: Ponciano Panis

South: Felomino Asis

West: Recardo Macaventa

Then, on April 25, 1973, a Cadastral Survey was conducted. The land of Agatona Astorga Altagracia was designated as Cadastral Lot No. 943, as proof thereof the defendants-respondents attached certified copy of the front and reverse sides of the Survey notification card marked as Exhibit “7” (for the defendants-respondents).

Thus, it could only be surmised that during the Cadastral Survey on April 25, 1973, the families of Silvestre Panis and Agatona Astorga-Altagracia have adverse claims over these two (2) adjacent lots in that through a series of tax declaration revisions the lot was consolidated as Lot No. 944 with an area of “Six Hundred Sixty Six nd 90/100” (666.90) square meters as shown in the latest revision of tax declaration.

Apparently, there are now two parcels of land covered by the latest tax declaration, both with an area of 333 square meters each, more or less. Moreover, the declared owner is “Silvestre Panis vs. Agaton Astorga” and not solely in the name of “Silvestre Panis” as what plaintiffs-petitioners have declared in their Complaint.

The defendants-respondents stressed that despite these indubitable facts, the plaintiffs-petitioners refused to acknowledge the ownership by Rogelio A. Altagracia's family of the half portion of Lot No. 944 (which apparently is a consolidation of the lots of Altagracias and Silvestre Panis). The plaintiffs-petitioners went far in trying to exclude him from the property.

Finally, they claimed that the controversy is not solely about possession de facto but possession de jure as there is a controversy over the true ownership of Lot No. 944.

Ruling of the Municipal Trial Court

On April 27, 2011, the Municipal Trial Court of Barugo, Leyte thru Presiding Judge Buenaventura A. Renomeron rendered the Decision[6] on the petition. The dispositive portion of the Decision states:

“WHEREFORE, above-premises considered, judgment is hereby rendered:

1. ORDERING the defendants, and any person or persons acting for in their behalf and/or claiming or depriving rights under them, to vacate the premises in question, demolish whatever structures they constructed thereon, and restore the possession thereof to the plaintiffs; and
2. ORDERING the defendants, jointly and severally, to pay the plaintiffs the sum of Php 10,000.00 representing litigation expenses and costs of this suit.

SO ORDERED.”[7]

On August 12, 2011, a Notice of Appeal[8] was filed by the herein defendants-respondents relative to the Decision[9] promulgated by the MTC of Barugo, Leyte.

Ruling of the Regional Trial Court

After the parties have filed their respective Memorandum,[10] the appellate court rendered the Decision[11]. The decretal portion of the Decision dated February 8, 2012 reads:

“WHEREFORE, foregoing premises considered, the appeal is hereby given DUE COURSE and the decision of the Municipal Trial Court, Barugo Leyte, is hereby REVERSED and SET ASIDE. A new one is hereby entered in favor of the appellants and against the appellees DISMISSING the complaint for lack of cause of action; and DISMISSING also the counterclaims of the appellees for insufficiency of evidence.

NO COSTS.

SO ORDERED.”[12]

The plaintiffs-petitioners filed the instant Petition for Review wherein they anchored the same on two main grounds, viz:

I THE COURT A QUO ERRED IN GIVING OVER-RELIANCE TO THE TAX DECLARATIONS SUBMITTED BY THE RESPONDENTS AND PRONOUNCED THEIR OWNERSHIP BASING THEREFROM

II THE COURT A QUO ERRED IN OMITTING THE P8,000.00 DAMAGES FOR ATTORNEY'S FEES NOTWITHSTANDING THAT THE RESPONDENTS ACTED IN GROSS AND EVIDENT BAD FAITH IN INTRUDING INTO AND REFUSAL TO VACATE LOT NO. 944, PLS. 1061-D.[13]

This Court's Ruling

The petition lacks merit.

After a careful evaluation of the evidence extant from the record, We find that the defendants-respondents were in prior physical possession of the disputed property, contrary to the holding of the Municipal Trial Court that the plaintiffs-petitioners were in prior possession thereof.

It bears to stress that in ejectment cases, the only issue for resolution is who is entitled to the physical or material possession of the property involved, independent of any claim of ownership set forth by any of the party-litigants. Anyone of them who can prove prior possession de facto may recover such possession even from the owner himself.[14] Ejectment does not depend on title for relief; the criterion is the right to possession.[15] Thus, priority in time should be the pivotal point in resolving the issue of possession.

Section 1, Rule 70 of the Revised Rules of Court[16] requires that in actions for forcible entry the plaintiff is allegedly deprived of the possession of land or building by force, intimidation, threat, strategy, or stealth and that the action shall be filed within one year from the time of such unlawful deprivation of possession. This requirement implies that the possession of the disputed land by the defendants-respondents is unlawful from the beginning as he acquired possession thereof by unlawful means. The plaintiffs-petitioners must allege and prove that they were in prior physical possession of the property in litigation until they were deprived thereof by the defendants-respondents. The one year period within which to bring an action for forcible entry is generally counted from the date of actual entry by the defendants-respondents on the land.[17]

A party having the burden of proof must establish his case by a preponderance of evidence. In doing so, he must rely on the strength of his own evidence, not on the weakness of the defendant's.[18]

To support their allegation of prior possession, herein petitioners, as plaintiffs in the ejectment case, relied primarily upon their own testimonies[19]. The Municipal Circuit Trial Court gave much weight on the testimony that it were the defendants-respondents who forcibly excluded plaintiffs-petitioners from possession of the land on March 21, 2010. In the words of the said court:

“On the first issue, there is no gainsaying the fact that plaintiffs are in prior physical possession of the land in issue. For it is clear that when these defendants had forcibly entered into the premises in the morning of March 21, 2010, the plaintiffs were then present to which when defendants were asked why they were depriving them of their possession, they, instead of answering, sternly warned them to vacate otherwise, they will be killed so much so that for fear of their lives, they did not, since then, go to their land anymore. These plaintiffs' claim of ownership, prior physical possession of the premises in issue, their planting and harvesting of the root cops and other fruit other fruit bearing trees. xxx xxx xxx”

In other words, the prior possession that was required under the law was only established by the

plaintiffs-petitioners through (1) their allegation that they were ousted by the defendants-respondents, and (2) that they planted plants, fruit bearing trees and root crops such as dalandan, santol, caimito, banana, avocado, langka, malunggay, cassava, camote. To support their second contention that they had planted on the subject land, the plaintiffs-petitioners presented pictures of the already cut trees and plants.

In addition to their testimonial evidence, plaintiffs-petitioners presented a Tax Declaration 08-05-0035-00244 which indicated that the declared owner is “Silvestre Panis vs. Agatona Astorga” contrary to their allegation that the subject lot is owned solely by Silvestre Panis.

On the other hand, to prove prior possession, defendants-respondents presented documentary exhibits during trial such as the Tax Declaration No. 7517 issued in 1913, Tax Declaration No. 10395 issued in 1950, Tax Declaration No. 15621 issued in 1971, Tax Declaration No. 595 issued in 1974 and the four photographs which depict therein the remnants of the cemented pavement, the nipa hut, the plants and trees. They, likewise established their prior physical possession through the affidavits of herein defendants-respondents Rogelio M. Altagracia, Tito Cornelio and their witness Lydia Madronero-Bustillo, who was then 71 years old at the time she executed her affidavit.

Again, to emphasize, even at the risk of being repetitive, for a forcible entry suit to prosper, the plaintiffs-petitioners must allege and prove that they were in prior physical possession of the property and that they were deprived of such possession by means of force, intimidation, threat, strategy, or stealth.[20] A party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain in the property until a person with a better right lawfully ejects him.[21]

The Municipal Trial Court totally relied upon the testimonies of the plaintiffs-petitioners and overlooked the fact that their statements were not substantiated by documents, which were quite damaging to the existence of petitioner’s alleged cause of action for forcible entry. Here, the plaintiffs-petitioners have not even presented other witnesses who could testify that they have been possession of the land before that of the defendants-respondents.

This Court noted that the police blotter was entered on April 8, 2010, several days after the forcible entry that was allegedly committed by the defendants-respondents on March 21, 2010.

Plaintiffs-petitioners' evidence fails to make out a prima facie case of forcible entry as it does not satisfactorily establish that plaintiffs-petitioners have been in physical possession of the subject property prior to respondents' occupation thereof.

For one, we cannot tack plaintiffs-petitioners' prior possession of the property absent any proof that they have indeed occupied the property. For all we know, the plants that they claimed that they planted were inexistent as they have not even presented pictures of the planted trees and rootcrops before they were allegedly destroyed by the defendants-respondents. We cannot simply rely on plaintiffs-petitioners' self-serving testimony that they first occupied the said property.

Besides, tax declarations and realty tax payments are not conclusive proof of possession.[22] They are merely good indicia of possession in the concept of owner based on the presumption that no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession.[23] It bears emphasizing that the word "possession," as used in forcible entry and unlawful detainer cases, means nothing more than physical possession, not legal possession in the sense contemplated in civil law.[24] When the law speaks of possession, the reference is to prior physical possession or possession de facto, as contra-distinguished from possession de jure.[25] Only prior physical possession, not title, is the issue.[26] Issues as to the right of possession or

ownership are not involved in the action; evidence thereon is not admissible, except only for the purpose of determining the issue of possession.[27]

As against the self-serving testimonial evidence relied primarily upon by plaintiffs-petitioners that they were forcibly ejected from the land on March 21, 2010 and the documentary and testimonial evidence of defendants-respondents' prior possession, more particularly the testimonies of Rogelio M. Altagracia, Tito Cornelio and their witness Lydia Madronero-Bustillo and the pictures depicting their cemented basketball court as well as their house, the latter must prevail.

More importantly, no substantial injustice would be caused the petitioners if we uphold the finality of the RTC judgment, considering that they still have another remedy to recover their alleged right to possess the property.[28] Since plaintiffs-petitioners anchor their right to possess the property on their alleged ownership of the same, they may file the appropriate action to recover such ownership.

In view of the conclusions we have thus reached, it is unnecessary to pass upon the other issues raised in the petition.

WHEREFORE, premises considered, the challenged Decision of the Regional Trial Court, Branch 36, Carigara, Leyte, dated February 8, 2012 in Civil Case No. M-BAR-11-2015-CV-ROO-AP in the matter of Forcible Entry with Prayer for Temporary Restraining Order, Injunction and Damages is hereby **AFFIRMED** in toto.

No costs.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] See Petition for Review for the Petitioners, rollo, pp. 3-16.

[2] Rollo, pp. 185-192, penned by Judge Lauro A. P. Castillo, Jr.

[3] Rollo, pp. 143-147, penned by Presiding Judge Buenaventura A. Renomeron.

[4] See Statement of the Matters Involved in the Petition for Review of the Petitioners, rollo pp. 4-8.

[5] See Brief Statement of Facts of the respondents in their Comment to the Petition for Review, rollo, pp. 203-205.

[6] Rollo, 143-147.

[7] Rollo, p. 147.

[8] Rollo, pp. 171-184.

[9] Rollo, pp. 143-147.

[10] See Memorandum of Appeal for the defendants-appellants, rollo pp.171-184 and plaintiffs-appellees' Memorandum of Appeal, rollo pp. 148-170.

[11] Rollo, pp. 185-192.

[12] Rollo, p. 192.

[13] Rollo, p. 8.

- [14] *Diu v. Ibajan*, 322 SCRA 452, 458 [2000]; *Ceremonia v. Court of Appeals*, 314 SCRA 731, 736 [1999]; *Gachon v. Devera, Jr.*, 274 SCRA 540, 552 [1997]; *German Management & Services, Inc. v. Court of Appeals*, 177 SCRA 495, 499 [1989].
- [15] *First Nat'l Bank v. Socony Mobil Oil Co. (Mo)* 495 SW2d 424, 25 Am Jur 2d, Ejectment §6.
- [16] 1997 Rules of Civil Procedure.
- [17] *Sps. Pedro Ong and Veronica Ong v. Socorro Parel and Hon. Court of Appeals*, G.R. No. 143173, March 28, 2001, pp. 6-7.
- [18] *Buduhan v. Pakurao*, G.R. No. 168237, February 22, 2006, 483 SCRA 116, 122.
- [19] *Rollo*, pp. 94-100.
- [20] *Gonzaga v. Court of Appeals*, G.R. No. 130841, February 26, 2008, 546 SCRA 532, 540.
- [21] *Domalsin V. Valenciano*, G.R. No. 158687, January 27, 2006, 480 SCRA 114, 131-132.
- [22] *Estrella v. Robles, Jr.*, G.R. No. 171029, November 22, 2007, 538 SCRA 60, 74.
- [23] *Ganila v. Court of Appeals*, G.R. No. 150755, June 28, 2005, 461 SCRA 435.
- [24] *Tirona v. Alejo*, 419 Phil. 285, 298 (2001).
- [25] *Gonzaga v. Court of Appeals*, G.R. No. 130841, February 26, 2008, 546 SCRA 532, 540.
- [26] *Heirs of Pedro Laurora v. Sterling Technopark III*, G.R. No. 146815, April 9, 2003, 401 SCRA 181, 184.
- [27] *Habagat Grill v. DMC-Urban Property Developer, Inc.*, G.R. No. 155110, March 31, 2005, 454 SCRA 653, 670.
- [28] *Joven De Grano*, represented by Venus P. de Grano, Ernesto H. Malabanan, and Simplicia D. Malabanan vs. Gregorio Lacaba, G.R. No. 158877, June 16, 2009

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.