

MARILOU S. BANGGAO, PETITIONER, VS. SPOUSES LOPE L. NORCIO AND JULIE G. NORCIO, RESPONDENTS.

Ponente: VILLON, J.

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VILLON, J.:

Before this Court is an appeal by way of a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure, as amended, which seeks to annul and set aside the decision dated April 27, 2011[1] rendered by the Regional Trial Court (RTC), Branch 33, Guimba, Nueva Ecija, in Civil Case No. 1612-G for Forcible Entry with Damages, reversing the decision of the Municipal Trial Court (MTC) of Cuyapo, Nueva Ecija in Civil Case No. 1890.

Records show that plaintiffs[2] spouses Lope L. Norcio and Julie G. Norcio filed a Complaint for Forcible Entry with Damages[3] against defendants Edwin Gines and Marilou Banggao[4] with the Municipal Trial Court (MTC) of Cuyapo, Nueva Ecija, which was docketed as Civil Case No. 1890.

Respondents claimed that since 2006 they were lessees of a lot situated in Brgy. District II, Cuyapo, Nueva Ecija, which was administered by a certain Lorie Manzano, paying an annual rental of One Thousand Two Hundred Pesos (P1,200.00); they had their house built thereon at the cost of Seventy Thousand Pesos (P70,000.00); and, that on March 6, 2010, petitioner and Edwin Gines, together with other persons, unlawfully entered the lot and demolished respondents' house with force, strategy and stealth and without notice or court order.

Petitioner and Edwin Gines denied the material allegations of the complaint.[5] By way of special and affirmative defenses, they claim that the real owner of the lot was the deceased Eustaquio Busine, whose legal heir, Mauro Busine, authorized Corazon Manzano Oliver (Corazon for brevity) to sell the lot; on April 29, 2009, Corazon executed in favor of petitioner a contract to sell; on May 18, 2009, respondent Julie Norcio and two other persons received the amount of P2,000.00 thereby executing a written promise to vacate the lot; respondents failed to comply with their promise though petitioner allowed them to stay in the premises until December 31, 2009; and that respondents' house was demolished on March 6, 2010 without force, intimidation, stealth, threat or strategy and was even with respondents' knowledge and consent.

After due proceedings, on February 28, 2011, the MTC rendered its decision[6], the decretal portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered:

- DISMISSING the complaint for lack of material allegation of prior physical possession.

This case is also DISMISSED finding that MARILOU BANGGAO did not employ force, intimidation, stealth, threat or strategy when a mini-dump truck dumped sand and soil in the premises and the house of LOPE NORCIO and JULIET NORCIO was demolished considering that there was an apparent implied consent on their part.

- Declaring LOPE and JULIET NORCIO as unlawful actual occupants of the subject property on the ground that

there is no substantial evidence to prove that they are lessees of the subject property; and

- Resolving that MARILOU BANGGAO has the ownership over the subject property by virtue of the contract to sell executed by Mauro Busine the former owner through his legal representative Corazon Oliver in favor of Marilou Banggao and she has the right of possession over the same as an attribute of ownership of the property;

- Ordering LOPE and JULIET NORCIO to pay attorney's fees in the amount of P10,000.00;

- Ordering LOPE and JULIET NORCIO to pay the costs of this suit.

The counterclaim of MARILOU BANGGAO against LOPE and JULIET NORCIO should be set for hearing to prove her claim for damages.

SO ORDERED."

On appeal to the RTC, the assailed Decision was rendered, the dispositive portion of which reads:

"From the foregoing facts and premises the appealed decision is reversed, and considering that the plaintiffs prayed only for damages, the defendant Marilou Banggao is ordered to pay to the plaintiffs:

- P70,000.00 representing costs of the house demolished;

- P10,000.00 in moral damages;

- P10,000.00 in attorney's fees payable to the Public Attorney's Office

SO ORDERED."

Hence, the present petition for review anchored on the following assigned errors:

I. THE REGIONAL TRIAL COURT ERRED IN RULING THAT THE COMPLAINT CONTAINS SUFFICIENT ALLEGATIONS CONTAINING AN ACTION FOR FORCIBLE ENTRY.

II. THE TRIAL COURT ERRED IN RULING THAT THE RESPONDENTS DID NOT CONSENT TO THE DEMOLITION OF THEIR HOUSE.

III. THE TRIAL COURT ERRED IN AWARDING DAMAGES TO HEREIN RESPONDENTS IN THE AMOUNT OF P70,000.00 REPRESENTING COSTS OF THE HOUSE DEMOLISHED; P10,000.00 IN MORAL DAMAGES, AND P10,000.00 IN ATTORNEY'S FEES PAYABLE TO THE PUBLIC ATTORNEY'S OFFICE.

The petition is meritorious.

In ejectment cases (i.e., forcible entry and unlawful detainer), the complaint should embody such statement of facts as to bring the party clearly within the class of cases under Section 1, Rule 70 of the 1997 Rules of Civil Procedure, as amended, which states:

"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."

The Complaint materially alleges the following:

"2. That plaintiffs are lessees of a lot situated in Brgy. District II, Cuyapo, Nueva Ecija administered by a certain Lorie Manzano since year 2006 paying One thousand Two Hundred Pesos (P1,200.00) per annum to the latter.

3. That plaintiffs' spouses as lessees of the lot erected a house therein sometime in 2006 at the cost of Seventy Thousand Pesos (Php70,000.00) Philippine currency;

4. That plaintiffs are religiously paying the yearly rentals of P1,200.00 but failed to pay for two years, 2009 and 2010, because Lorie Manzano transferred to an unknown place without informing the plaintiffs;

5. That on or about March 6, 2010, the defendants together with other persons, by means of force, strategy and stealth, unlawfully entered the lot being rented by plaintiffs and demolished the house of the plaintiffs without notice or court order;

6. That upon knowing the unlawful acts of the defendants at about 9:00 o'clock of March 6, 2010, plaintiff Lope Norcio confronted defendants Engr. Edwin Gines and Marilou Banggao by asking them why they were demolishing their house and if they had a court order to show authorizing them to demolish their house but Marilou Banggao sarcastically answered that they do not need a court order because she owned the lot wherein the house of the plaintiffs was erected;

7. That because plaintiffs and members of their household were somewhere else at the time defendants forcibly entered the lot they were renting and demolished their house erected thereon, they lost one (1) Nokia cellphone worth P3,000.00, wallet of plaintiffs' father containing P4,000.00, I.D. and other important documents;

8. That plaintiffs are demanding from the defendant Marilou Banggao if she could show any title evidencing their ownership to the lot but she was unable to show any;

9. That because of the evident bad faith and unprecedented unlawful acts of the defendants in demolishing the house of the plaintiffs, the latter spouses suffered sleepless nights, besmirched reputation, wounded feelings and exposed to elements thereafter, for which they are asking an award of damages amounting to P15,000.00;

10. That so also the plaintiffs were constrained to enlist the services of the Public Attorney's Office because they are compelled to litigate with third persons and for which reason, they are entitled to an award of attorney's fees amounting to P15,000.00 payable to Public Attorney's Office;"[7]

Noteworthy is that respondents' complaint does not ask for any relief for the restoration of physical possession of the disputed property in their favor. Instead, they merely sought for the recovery of damages, viz:

"WHEREFORE, premises considered, they plaintiffs, through their counsel, respectfully pray that judgment be rendered ordering the defendants:

- To pay plaintiffs actual damages, representing the cost of the house-P70,000.00, cost of cellphone-P30,000.00 and amount of money lost in the process -P4,000;

- To pay moral damage of not less than P15,000.00;

- To pay attorney's fees amounting to P15,000.00 payable to the Public Attorney's Office pursuant to Sec. 16, par. 2, RA 9406 (PAO Law), in relation to Sec. 35 of its Implementing Rules and Regulations.

- To pay the costs."

Section 17, Rule 70 of the 1997 Rules of Civil Procedure, as amended, provides that the damages recoverable in ejectment cases are limited only to rentals or reasonable compensation for the use of the property. Thus:

"SECTION. 17. Judgment. - If after trial the court finds that the allegations of the complaint are true, it shall render judgment in favor of the plaintiff for the restitution of the premises, the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, attorney's fees and costs. If it finds that said allegations are not true, it shall render judgment for the defendant to recover his costs. If a counterclaim is established, the court shall render judgment for the sum found in arrears from either party and award costs as justice requires." (underscored ours)

Corollary thereto, the Supreme Court, in the case of *Araos vs Court of Appeals*,^[8] explained the rationale for limiting the kind of damages recoverable in a forcible entry case, to wit:

"The rule is settled that in forcible entry or unlawful detainer cases, the only damage that can be recovered is the fair rental value or the reasonable compensation for the use and occupation of the leased property. The reason for this is that in such cases, the only issue raised in ejectment cases is that of rightful possession; hence, the damages which could be recovered are those which the plaintiff could have sustained as a mere possessor, or those caused by the loss of the use and occupation of the property, and not the damages which he may have suffered but which have no direct relation to his loss of material possession." (underscoring supplied)

Considering that respondents' claim for actual and moral damages in their complaint for forcible entry has no direct relation to loss of material possession, the same cannot be sustained. An action for damages is an ordinary civil action which is proper within the realm of regular procedure, while an action for forcible entry is a quieting process that is summary in nature. Neither can respondents properly join their action for recovery of actual and moral damages in their complaint for forcible entry. The joinder of the two actions is not allowed under Section 5, Rule 2 of the 1997 Rules of Civil Procedure, as amended, to wit:

"Sec. 5. Joinder of causes of action. - A party may in one pleading assert, in the alternative or otherwise, as many causes of action as he may have against an opposing party, subject to the following conditions:

(a) The party joining the causes of action shall comply with the rules of joinder of parties;

(b) The joinder shall not include special civil actions or actions governed by special rules:

(c) Where the causes of action are between the same parties but pertain to different venues or jurisdictions, the joinder may be allowed in the Regional Trial Court provided one of the causes of actions falls within the jurisdiction of said court and the venue lies therein; and

(d) Where the claims in all the causes of action are principally for recovery of money, the aggregate amount claimed shall be the test of jurisdiction." (underscoring supplied)

As aptly found by the MTC:

"Perusal of the respective claims of the parties, it is an established fact that in 2006 one Lorie Manzano leased

the subject property to Spouses Lope and Julie Norcio x x x for P1,200.00 per year rental. In 2009, Marilo Banggao x x x bought the same from Mario C. Busine thru Corazon Oliver an authorized representative of Busine. A certain Nono and Julie Norcio met before PB Jaime B. Duro, Jr. where Norcio received the amount of P2,000.00 in the presence of Eddie de la Cruz and promised to leave the premises on June 15, 2009. On March 6, 2010 a mini dump truck dumped soil and sand in front of the kitchen of the house of Norcio and the house was demolished in their presence.

The Court has noted a flaw of the complaint as regards the material allegations in order that this case should be put into consideration. The Court noted that the complaint lacks material allegation on prior physical possession of the subject property by the plaintiffs. Norcio's evidence fails to make out a prima facie case of forcible entry as it does not satisfactorily establish that respondent (sic) has been in physical possession of the subject property prior to Banggao's occupation thereof."[9]

Well-settled is the rule that the findings of fact of the trial court, its calibration of the evidence of the parties, its assessment of the credibility of the witnesses and its conclusion based on its findings are accorded by the appellate court high respect, if not conclusive effect.[10] Unless the factual findings complained of are not supported by the evidence on record or the assailed judgment is based on a misapprehension of facts, the findings of the trial court must be accorded the highest respect, even finality, by the Supreme Court.[11] We find no cogent reason to deviate from the foregoing principle of law.

WHEREFORE, the present Petition for Review is GRANTED. The Decision dated April 27, 2011 of the Regional Trial Court, Branch 33, Guimba, Nueva Ecija in Civil Case No. 1612-G is hereby REVERSED and SET ASIDE, entering a new one REINSTATING the decision of the Municipal Trial Court in Civil Case No. 1890 which, however, is hereby MODIFIED by deleting that portion setting this case for hearing to prove petitioner's counterclaim for damages.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Macalino, F.S., and [*]Inting, S.B., JJ., concur.

[1] Vice Justice Pedro B. Corales per Office Order No. 161-14-AGT dated April 24, 2014

[1] Rollo, pp. 39-41

[2] Herein respondents

[3] Rollo, pp. 22-24

[4] Herein petitioner

[5] Answer with Counterclaim and Motion to Dismiss, Rollo, pp. 26-29

[6] Rollo, pp. 30-38

[7] Rollo, pp. 22-23

[8] G.R. No. 107057 June 2, 1994

[9] MTC Decision dated February 28, 2011, Rollo, p. 32

[10] Manangan vs. Court of Appeals, 425 SCRA 169

[11] Benguet Exploration, Inc. vs. Court of Appeals, 351 SCRA 445

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