

DOMINGO M. MANGUILIN, PETITIONER, VS. CRISANTO BURAGA, ANTONIO BURAGA, AND EDUARDO BURAGA, RESPONDENTS.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Assailed in this Petition for Review[1] is the Judgment[2] dated 26 November 2012 of the Regional Trial Court, Second Judicial Region, Tuguegarao City, Branch 03, in Civil Case No. 7654, dismissing petitioner's Complaint for Forcible Entry.

The prevenient facts are incontrovertible.

Embroided in the controversy is a parcel of land described as Lot No. 10340 located in Namabbalan, Tuguegarao City, Cagayan.[3]

Petitioner Domingo Manguilin initiated a Complaint for Forcible Entry with application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction and Damages averring, inter alia, that the aforesaid realty was owned, occupied and cultivated by Pedro Maguilin (Pedro), who died intestate. Upon the death of Pedro, petitioner, as the sole surviving heir, inherited and cultivated the subject lot with Domingo Atara as caretaker thereof. Sometime in 2010, Pedro, together with his caretaker and other hired helpers initiated the clearing, fencing and pruning of the trees standing thereon and caused the planting of grafted mango seedlings and vegetables. However, respondents Crisanto, Antonio and Eduardo, all surnamed Buraga, drove them away through force, strategy, stealth and intimidation. Then, they enclosed the subject premises.

Au contraire, respondents denied the material allegations of the Complaint. They claimed that they were the owners and in possession of the land in question, having acquired the same from their predecessors-in-interest, Juan Baggay and Laureano Buraga who were then the actual possessors thereof prior to 1950. They introduced improvements and constructed residential houses within the premises; they and their predecessors-in-interest religiously paid the real property taxes thereon.

Assaying the contrasting postures of the parties, the Municipal Trial Court in Cities (MTCC) of Tuguegarao City, Branch 2, rendered a Decision dated 8 July 2011, ordering respondents to vacate the premises and to pay rentals and damages to petitioner. The fallo thereof reads:

"WHEREFORE, in light of the foregoing, judgment is hereby rendered in favor of the (petitioner) and against the (respondents), as follows:

- Ordering (respondents) and all persons claiming rights under him to vacate and peacefully surrender the possession of the lot subject of the suit to the (petitioner);

- Ordering (respondents) to pay reasonable rental of P1,000.00 per month commencing from September 15, 2010 until vacated with interest of 12% per annum until fully paid;

- Ordering (respondents) to pay the amount of P5,000.00 representing the reasonable actual expenses incurred by the (petitioner);

- Ordering (respondents) to pay attorney's fee in the amount of P10,000.00; and

- Ordering (respondents) to pay the cost of the suit.

SO ORDERED."[4]

On appeal, the court a quo reversed and set aside the judgment of the MTCC and dismissed petitioner's Complaint, ratiocinating and disposing, thusly:

"In view of the foregoing, this Court finds that the (petitioner) failed to prove by preponderance of evidence his claim of prior possession over the land in suit to sustain his cause of action.

x x x

x x x

WHEREFORE, premises considered, the appeal is granted. The Decision dated July 8, 2011 of the Municipal Trial Court in Cities Branch 02, Tuguegarao City, in Civil Case No. 2957 is reversed and set aside and the Complaint is dismissed.

SO ORDERED."[5]

Petitioner moved for reconsideration praying for the conduct of a new trial anchored on newly discovered evidence. Still and all, the court a quo paid no heed to his Motion.[6]

Undaunted, petitioner now comes to Us via this Petition asserting that the court a quo erred—

I

IN GIVING WEIGHT TO DOCUMENTARY EXHIBITS OF THE HEREIN RESPONDENTS DESPITE THE FACT THAT THEIR POSITION PAPER FILED BEFORE THE MTCC-BRANCH 02 IS UNVERIFIED AND THAT THE SAME DOCUMENTARY EXHIBITS WERE NOT EVEN FORMALLY OFFERED IN EVIDENCE.

II

IN FAILING TO CONSIDER THE PRIOR POSSESSION DE FACTO OF THE HEREIN PETITIONER OVER THE SUBJECT LOT DESPITE THE PRESENCE OF EVIDENCES (SIC) TO PROVE THE SAME FACT.

The Petition is meritless.

Petitioner steadfastly asserts that the documentary evidence on record sufficiently proved that he and his predecessors-in-interest had been in prior physical possession of the property in litigation.

Petitioner's assertion is devoid of legal mooring.

Persuasive authority has it that possession in forcible entry cases means nothing more than physical possession or possession de facto, not legal possession in the sense contemplated in civil law. Only prior physical possession,

not title, is the issue,[7] independent of any claim of ownership set forth by any of the party-litigants, and it does not even matter if the title to property is questionable.[8] In forcible entry, the plaintiff is deprived of physical possession by means of force, intimidation, threat, strategy or stealth. It is a basic rule in civil cases that the party having the burden of proof must establish his case by a preponderance of evidence, which simply means “evidence which is of greater weight, or more convincing than that which is offered in opposition to it. Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's.[9]

In the case at bench, petitioner failed to discharge such bounden duty. We sieved through the records and found that other than his bare allegation, petitioner propounded no convincing evidence to bolster his claim of prior physical possession. His reliance on the entries in the police blotter and the affidavits of his witnessess could hardly carry the day for him. These documents divulged no alleged prior actual possession and occupation of the disputed realty. The entries in the police blotter are mere proof that a report or complaint was made to the police authorities of Tuguegarao City, and nothing more. Entries in the police blotter should not be given undue significance or probative value as they are not evidence of the truth of their contents but merely of the fact that they were recorded.[10] Entries in a police blotter, though regularly done in the course of the performance of official duty, are not conclusive proof of the truth of such entries for they are often incomplete and inaccurate. They, therefore, should not be given undue significance or probative value as to the facts stated therein.[11] In the same vein, the affidavits of petitioner's witnesses are bereft of any averment as to his alleged prior physical possession of the subject property.

Invariably, the court a quo appropriately adjudged that petitioner failed to prove by preponderance of evidence his claim of prior physical possession over the land. Along this grain, We echo the court a quo's disquisition—

"Prior to September 2010, had (petitioner) or his predecessor-in-interest Pedro Manguilin been in actual possession or occupation of the land in suit? This (petitioner) failed to prove it with convincing proof. If they had been always been in possession thereof prior to September 2010, personally or through a caretaker like Domingo Atara, why is (sic) there been no proof of any improvements they have introduced in the lot? In fact, the Complaint and the supporting Joint Affidavits are one and clear in their allegations that (petitioner), with Domingo Atara and other hired helpers INITIATED the clearing, fencing and pruning of the trees standing in the land in suit and planted mango seedlings and vegetables sometime in September 2010. The technical description Lot No. 10340 with an area of 40,438.34 issued by the DENR-Regional Office No. 02 is not a competent proof of actual possession by the (petitioner) and/or his predecessor-in-interest. The excerpts of police blotter do not also prove prior possession and actual cultivation of the land in suit of the (petitioner); they only prove the reports made to the Tuguegarao City Police reflected in the Police Blotter x x x."

X X X

X X X

x x x Truth is, the (petitioner) had not been in possession prior to September 2010, personally or through his caretaker Domingo Atara. Rather, it is the (respondents) who are in possession of the land in suit before, during and after September 2010 and as such, the law gives them the right to defend it with reasonable force.

X X X

X X X

In view of the foregoing, this Court finds that the (petitioner) failed to prove by preponderance of evidence his claim of prior possession over the land in suit to sustain his cause of action.”[12] (Emphasis supplied)

Indeed, the foregoing discourse deserves affirmance in fealty to the established precept that factual findings of the trial courts should be accorded great weight and are generally not disturbed on appeal.[13] Case law teaches Us that the absence of prior physical possession by the plaintiff in a forcible entry warrants the dismissal of the complaint.[14] Apparently, the explication of the court a quo is in accord with settled jurisprudence.

Next, petitioner postulates that the court a quo erred in giving probative weight to the unverified Position Paper of herein respondents. Likewise, petitioner takes issue with the alleged failure of respondents to formally offer their documentary evidence.

The issue on the unverified position paper was brought to fore for the first time before Us. It is a shopworn doctrine that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body, need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel.[15]

Apropos the admissibility of evidence for want of formal offer, suffice it to say that the Supreme Court in the case of *Heirs of Lourdes Saez Sabanpan v. Comorposa*[16] held that neither the rules of procedure nor jurisprudence would sanction the admission of evidence that has not been formally offered during the trial. But this evidentiary rule is applicable only to ordinary trials, not to cases covered by the rule on summary procedure —cases in which no full-blown trial is held.

In précis, the court a quo erred not in ruling that there lies no complaint for forcible entry.

WHEREFORE, the Petition for Review is hereby DENIED. The impugned Judgment dated 26 November 2012 of the Regional Trial Court, Tuguegarao City, Branch 03, in Civil Case No. 7654, is AFFIRMED.

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.

Ybanez and Manahan, JJ., concur.

[1] Rollo, pp. 9-23.

[2] *Id.*, pp. 120-131.

[3] *Id.*, p. 46.

[4] Rollo, p. 74.

[5] *Id.*, p. 131.

[6] *Id.*, p. 137.

[7] See *Abad v. Farrales*, 647 SCRA 473, 481 (11 April 2011).

[8] See *Arbizo v. Santillan*, 546 SCRA 610, 622-623 (26 February 2008).

[9] *Buduhan v. Pakurao*, 483 SCRA 116, 122 (22 February 2006), See *Lucas v. Tuaño*, 586 SCRA 173, 207-208 (21 April 2009). (Italics supplied)

[10] See *People v. Cabrera, Jr.*, 402 SCRA 299, 308-309 (30 April 2003).

[11] See *People v. Belo*, 623 SCRA 527, 536-537 (5 July 2010).

[12] *Rollo*, pp. 129, 131.

[13] See *United Overseas Bank of the Philippines v. Rosemoor Mining and Development Corporation*, 534 SCRA 528, 546 (2 October 2007).

[14] See *Abad v. Farrales*, 647 SCRA 473, 481 (11 April 2011).

[15] See *S.C. Megaworld Construction and Development Corporation v. Parada*, 705 SCRA 584, 594 (11 September 2013).

[16] See 408 SCRA 692, 699 (12 August 2003).

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