

ANNETTE SUNGDUAN, PETITIONER, VS. JULIE R. SUNGDUAN, RESPONDENT.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

The petitioner instituted this petition for review to reverse and set aside the 27 June 2012 Decision[1] rendered by the Regional Trial Court (RTC) which denied the appeal of the petitioner and affirmed with modification the Judgment[2] of the Municipal Trial Court in Cities (MTCC) thus:

“WHEREFORE, the appealed Decision of the MTCC BRANCH I, Baguio City is hereby AFFIRMED with Modification, as to the rent of Php15,000, which is REDUCED to a reasonable amount of Php5,000.00 rental per month, from the time of the filing of this action on September 5, 2008 up to the time possession is returned to plaintiff.

Costs against defendant-appellant.

SO ORDERED.[3]

The material and relevant facts are as follows:

Respondent Julie Sungduan (“Julie”), Eugenio Sungduan and Lourdes Sungduan-Bibit were the children of Soledad Rullamas from her first marriage with Gilbert Sungduan. When the latter died, Soledad remarried to Maximino (or Maximo) Belleza (“Belleza”) in 1953. They settled, together with their children, in a parcel of land located at Lot 28, Block 25, Baguio Workingmen's Village, Aurora Hill, Baguio City. In 1968, the said lot was awarded to Belleza by virtue of Resolution No. 289-68[4] adopted by the Baguio City Council. As a prospective awardee, Belleza was required to introduce an improvement (particularly a house), or the award would be canceled; thus, Belleza and Soledad constructed a two-storey house on the said lot. Sometime in 1971, Soledad died. Belleza decided to transfer to Balaoan, La Union and resided permanently there. He later remarried to a certain Zenaida Belleza.

On 23 December 1989, Belleza sold to Julie the subject two-storey house in the amount of P65,000.00 as evidenced by a receipt[5] shown by Julie. Subsequently, an Affidavit of Waiver of Rights[6] (“waiver”) was executed and signed by Belleza on 01 March 1990 transferring, conveying and waiving all his rights including the improvements on the subject property in favor of Julie. He declared in his waiver that he could not continue to perfect his rights over the subject lot as an awardee. By virtue of the waiver executed by Belleza, Julie applied for and had been granted the transfer of award of the subject lot by the Baguio City Council through a Resolution No. 074 adopted on 23 April 2003.[7]

Julie averred that sometime in 1990, her niece, petitioner herein Annette Sungduan (“Annette”), daughter of her brother Eugenio Sungduan, begged her to be allowed to occupy the basement of the subject house. Julie granted Annette's request on the condition that the latter should return possession thereof upon her demand. Thereafter, Annette again asked permission to put up a store on the subject lot which she again granted out of generosity on the same condition that the possession should be surrendered to her upon her demand. Julie claimed that she could

not tolerate the dirty state that had become of the premises occupied by Annette; thus, she decided to evict Annette from the premises. Julie claimed that Annette had become disrespectful and ungrateful to her in spite of her generosity and even refused to heed her requests. Sometime in June 2008, Julie decided to terminate Annette's possession of the premises and demanded the latter to also remove the store set up by her on the subject lot. Because Annette disregarded her repeated oral and written demands, she referred the matter to the Lupong Tagapagpamayapa of Barangay Brookspoint. The parties failed to arrive at an amicable settlement, hence, Julie formally filed an ejectment suit before the MTCC.

For her part, Annette asserted that the subject two-storey house and lot were conjugal property of the spouses Belleza and Soledad because these were acquired during their marriage. When Belleza left for La Union, Eugenio, Lourdes and Julie assumed co-ownership over the said property as the remaining heirs of Soledad. Annette further asserted that, the subject lot was first applied for by her father Eugenio in 1968 but because of Eugenio's love and gratitude to Soledad and Belleza, he decided to withdraw the said application in their favor, who, by then had already erected the two-storey house within the said lot. When she married and had her own family, she asked her father and aunt Lourdes to stay in the basement of the subject house. As regards the store, Annette insisted that it was already existing since 1968 and had been put up by her father Eugenio himself. Annette claimed that she took over the store only in 1995, and, when she got a job in 2005, Eugenio regained management of the store. Annette thus assailed the authenticity of the waiver on the ground that the signatures therein had been forged. She presented the affidavits of Belleza's second wife Zenaida Belleza and son Jessie Belleza assailing the due execution and validity of the waiver. Annette stressed also that Julie had misled the Baguio City Council into awarding the subject lot to her by representing to them that Belleza was already dead at the time that she applied for the transfer of an award when in fact Belleza was still alive then and died only in November 2006.

Whether Julie had a cause of action against Annette and whether she was entitled to damages were the issues resolved by the MTCC. Via its 29 December 2009 judgment, the court held that Julie had a cause of action for unlawful detainer against Annette. The MTCC gave credence to the documentary evidence presented by Julie, such as, the receipt[8] issued by Belleza in her favor for the sale of the subject lot in the sum of P65,000.00; the waiver[9], a notarized document, executed by Belleza transferring, conveying and waiving all his rights over the subject lot including the two-storey house in favor of Julie; the Resolution No. 074 series of 2003[10] issued by the City Council of Baguio which approved the transfer of award of the subject lot to Julie; the Tax Declaration No. 01-02006-020716 issued in the name of Julie; and the Miscellaneous Sales Application No. 131102-1373[11] filed by Julie before the Department of Environment and Natural Resources (DENR)-Cordillera Administrative Region (CAR). The said documents were considered by the lower court collectively as an indicia of possession which sufficiently showed better right of possession by Julie in the concept of an owner as against Annette. The lower court consequently ruled that Julie was able to show by preponderance of evidence her possession and ownership of the subject property. Although the issue of ownership was passed upon by the court, it stressed that the adjudication was merely provisional and an initial determination of who had the right to possess the subject properties. The MTCC further held that the possession of Annette was legal from the beginning but became illegal from the time Julie asked her to vacate the premises and when Annette refused to heed such demand.

On appeal, Annette argued that the subject house and lot were conjugal property of the spouses Belleza and Soledad because these were acquired during their marriage; thus, Eugenio, Lourdes and Julie retain the said property as co-owners thereof. Annette and Eugenio had no knowledge of the sale and waiver entered into and executed by Belleza in favor of Julie and it was only in 2008 that Julie started declaring that she exclusively owned the said property and that they should vacate the premises. Annette further argued that Belleza's conveyance of the subject property was prohibited by the same resolution[12], that awarded him the lot. The said resolution proscribed Belleza from disposing or encumbering the subject lot without prior approval by the City

Council. Because of the said prohibition, the Baguio City Council resolved to re-open the proceedings that led to the issuance of the resolution approving the transfer of award of the subject lot to Julie.[13] Annette claimed that the MTCC erred in adjudicating the ejectment suit in favor of Julie while disregarding the fact that the DENR-CAR, CENRO and PENRO held in abeyance the further processing of Julie's sales application because the Baguio City Council still has to resolve to whom the subject lot would be awarded.

In the assailed 27 June 2012 decision, the RTC upheld the MTCC's ruling. The RTC also found that Julie is entitled to the physical possession of the subject house and lot. It ratiocinated as follows:

“Without going into details of the allegation of fraud and co-ownership to rebut the right of Julie Sungduan in the subject property, and to justify the possession of Annette, this Court agrees with the MTCC which properly adjudicated ownership of the property to plaintiff. It is settled that the sole issue in ejectment case is physical or material possession. Neither assertion of co-ownership or fraud can deprive the Court to decide the question of possession just because the defendant asserts ownership over the disputed property.

In this appealed case, it was duly proven that Julie was in possession of the property since 1970 and Annette merely occupied the basement of the subject property in 1990. To admit the position of defendant in her answer that permission was obtained from her father Eugenio and aunt Lourdes, is illogical considering Julie is the occupant of the property since 1970. Granting there was co-ownership, the same has not yet accrued absolutely in 1994 when Maximo (Maximino) was still alive. In fact, not even one among the alleged co-owners laid claim on their successional rights to attest to the issue of co-ownership by asking for partition which could constitute a legal basis for Julie's adverse and exclusive character of her possession. The contention that the possession of defendant-appellant in the property is not by mere tolerance, but, by virtue of her father's right as co-owner of the property, must fail.

In order for the defendant to acquire any whiff of merit, she is obliged to establish a legal basis for her continued occupancy of the property. Granting there was co-ownership, the mere tolerance of one of the co-owners, would not suffice to establish such a right because tolerance in itself does not bear any legal fruit, and it can easily be supplanted by a sudden change of heart on the part of the owner. The defendant has not adduced any convincing evidence that she somehow became a successor-in-interest as her alleged right would still be even inchoate. It is a well-settled rule that a person who occupies a property of another at the latter's tolerance or permission without any contract between them is necessarily bound by an implied promise that she will vacate upon demand, failing which, a summary action for ejectment may be filed against her. (Pengson vs. Ocampo, Jr. 360 SCRA 420)”

Undaunted, Annette filed a petition for review before us assigning the following errors:

“I.

SINCE THE SUBJECT HOUSE AND LOT WERE ACQUIRED BY MAXIMINO AND SOLEDAD DURING THEIR MARRIAGE, THEN THE SAME ARE THEIR CONJUGAL PROPERTIES. HENCE, THE RTC ERRED IN AFFIRMING THE DECISION OF THE MTC AND IN HOLDING THAT THERE IS NO CO-OWNERSHIP BETWEEN JULIE AND HER SIBLINGS EUGENIO AND LOURDES SUNGDUAN WHO ARE ALSO CHILDREN AND HEIRS OF SOLEDAD RULLAMAS.

II.

SINCE THE HOUSE AND LOT ARE THE PROPERTIES OF MAXIMINO AND SOLEDAD, THEN THE HEIRS OF SOLEDAD, INCLUDING EUGENIO AND HER DAUGHTER ANNETTE (PETITIONER HEREIN), ARE ENTITLED TO OWNERSHIP AND POSSESSION THEREOF. HENCE, THE RTC ERRED IN NOT HOLDING THAT PETITIONER IS EQUALLY ENTITLED TO THE POSSESSION AND OCCUPATION OF THE HOUSE AND LOT.

III.

SINCE PETITIONER IS ENTITLED TO THE POSSESSION AND OCCUPATION OF THE HOUSE AND LOT, THEN THE RTC ERRED IN HOLDING THAT PETITIONER'S OCCUPATION OF THE PROPERTY IS ONLY OUT OF TOLERANCE AND PERMISSION BY THE RESPONDENT.

IV.

GRANTING POR ARGUENDO THAT JULIE WAS PREVIOUSLY ENTITLED TO THE RELIEF OF UNLAWFUL DETAINER, THE RTC ERRED IN NOT HOLDING THAT THE SITUATION OF THE PARTIES CHANGED MATERIALLY AND SUBSTANTIALLY THAT SHE SUBSEQUENTLY CEASED TO BE ENTITLED TO THE RELIEF AWARDED BY THE MTC AND RTC'S JUDGMENTS."

The point of inquiry in this petition is, who, between Julie and Annette has the material and physical possession of the subject house and lot to be adjudicated as the one who has the better right of possession over the subject properties.

For being interrelated, we shall discuss jointly the first three errors assigned in this petition. Annette's claim that she is equally entitled to possession and occupation of the subject house and lot is anchored on her contention that the said properties were conjugal properties of the spouses Belleza and Soledad because these were acquired during their marriage. Annette thus asserts that, upon the death of the spouses Belleza and Soledad, the conjugal partnership was dissolved and the latter's children (Eugenio, Lourdes and Julie) from Soledad's first marriage retained co-ownership over the subject properties. Annette further asserts that as daughter of Eugenio, she is equally entitled to the possession and occupation of the house and lot being in open, continuous and peaceful occupation thereof and with the permission of her father and aunt Lourdes.

We do not agree with the petitioner.

It is hornbook doctrine that in an ejectment case, it is not the prime function of the courts to resolve questions relating to title to or ownership of the property in litigation. What is involved in ejectment cases is merely the issue of material or physical possession (or possession de facto) independent of any claim of ownership set forth by any of the party-litigants.[14] But where the parties to an ejectment case raise the issue of ownership, the courts may pass upon that issue to determine who between the parties has the better right to possess the property.[15] However, it must be emphasized that the adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.

For the sole purpose of determining the question of possession de facto, the trial court did pass upon the issue of ownership in favor of Julie. Both lower courts agreed that at some point, Julie's possession of the house and lot in question is with color of title by virtue of the receipt and waiver issued and executed by Belleza and the approval of the transfer of award in her favor. These pieces of evidence were given credence to support Julie's assertion of ownership over the subject properties. The receipt and waiver were examined and scrutinized by the RTC vis-a-vis the other documents available in the records and the court arrived at the same findings with that of the MTCC that there were no irregularities in the issuance and execution of the said documents and that the signatures therein were not tainted with forgery. Being a notarized document, the waiver enjoys the presumption of regularity and is conclusive as to the truthfulness of its contents.[16] Thus, we agree with the trial court's conclusion that the affidavits of Zenaida Belleza and Jessie Belleza were self-serving and merely an afterthought because they belatedly questioned the validity of the said documents although these were referred to and presented by Julie when she sought the approval of the Baguio City Council for the transfer of award in 2003.

Further, Annette, Eugenio, Lourdes and all interested persons had been notified of the pending application filed by Julie when she caused the posting of the notice of sale at the barangay bulletin board.[17] Yet, no adverse claim was noted to have been filed by any interested person. Also, we find no justifiable reason why Eugenio waited for five (5) years before writing to the Baguio City Council to oppose the application of Julie[18] when in

fact, the efforts of Julie to obtain title to the subject lot were conspicuous and public enough to be taken notice of.

Annette maintains that her right to the subject properties emanates from her father as co-owner thereof. Eugenio, however, did nothing more than write a letter-complaint to the Baguio City Council to oppose Julie's application and participate in the proceedings conducted by the Baguio City Council. He and Lourdes never, in any stage of the summary proceedings before the MTCC, intervened in the ejectment case as real party-in-interest to assert their supposed right or interest to the subject house and lot as co-owners thereof. Because of this, the Court cannot take cognizance of their supposed interest in the subject properties and neither could Annette's assertion of co-ownership be adjudicated in her favor. It must be born in mind also that Annette anchored her claim of equal right to possession and occupation based on an inchoate right as an heir of Eugenio. She has no real right over the properties because her right to her father's properties is a mere expectancy or contingent and vests only upon her father's death. While still living, Eugenio is free to dispose of his properties as he pleases.

The fact that Julie was in possession of the subject properties since 1970 is not rebutted by Annette. The latter's claim that Julie studied in Manila from 1968 until 1970 does not suffice to disprove her material and physical possession over the subject properties. Julie had been living in the subject house and lot since birth while Annette, who had no place to live together with her own family, had to ask permission allegedly from her father and aunt Lourdes to live in the subject house's basement. Annette even declared in her answer that it was in 1994 that she was allowed by Eugenio and Lourdes to occupy the basement of the subject house.[19]

Julie's possession is further substantiated by her acts of dominion, such as, by causing the transfer of the subject properties' tax declaration to her name[20] and subsequently having them appraised and assessed by the City Assessor.[21] It has been consistently held that tax declarations, especially of untitled lands, are credible proof of claim of ownership and are good indicia of possession in the concept of an owner.[22] Aside from declaring the said properties for taxation, Julie also caused a survey of the lot and Eugenio had knowledge thereof, yet, he did not oppose the said survey.

Given the foregoing circumstances, it is apparent that between Julie and Annette, Julie is adequately armed with sufficient evidence to prove that she had the material and physical possession of the properties; thus, she is entitled to the possession thereof.

Anent the fourth error, Annette calls our attention to the supervening events that transpired while the case was pending before the RTC and after said court rendered its decision. She stresses that the occurrence of some events; i.e., the setting aside of Resolution No. 074 that transferred the award of the lot from Belleza to Julie[23] and the CENRO's order dropping and rejecting Julie's application[24], changed materially and substantially the situation of the parties especially Julie because she consequently ceased to be entitled to the relief adjudicated to her by the MTCC and RTC.

This argument fails to convince us.

The petitioner cannot invoke the said supervening events to divest Julie of her right to possess and occupy the subject house and lot. We take into consideration the Resolution No. 409 series of 2011[25] of the Baguio City Council. A perusal of the said resolution reveals that there is no declaration or affirmation from the Baguio City Council that declared the spouses Belleza and Soledad to be owners, or to be Soledad's heirs as co-owners of the subject lot. In fact, the said resolution and even the order[26] of the CENRO dropping/rejecting Julie's application, only placed all the heirs of the spouses Belleza and Soledad in equal footing relative to the ownership of the subject properties and nowhere in the said resolution and order had it been declared who had the better right to possess the subject house and lot. It is also important to remember that whatever findings and conclusions that the Baguio City Council may have regarding the application of Julie are merely persuasive and not binding to the

courts.

Ultimately, Julie has the right to possess the property after Annette's possession became unlawful. A perusal of the submissions of the parties convinces us that the findings and conclusions of the RTC are in order. Again, we stress that the decisions of the lower tribunals finding Julie to be the owner of the subject house and lot were merely pursuant to the determination of the right of possession. The decision will not bar any of the parties from filing an appropriate suit with the proper court to determine conclusively the title to the disputed properties.

All told, the Court finds no basis with which to disagree with the RTC's conclusion that Julie is better entitled to the material and physical possession of the subject properties.

WHEREFORE, the petition is DENIED DUE COURSE. The assailed decision of 27 June 2012 is consequently AFFIRMED.

IT IS SO ORDERED.

Reyes, Jr., A.B., P.J., (Chairperson) and Gaerlan, JJ., concur.

[1] Written by Judge Rose Mary Molina-Alim, RTC, Branch 3 of Baguio City in Special Civil Case No. 7220-R, Rollo, p. 342.

[2] Rollo, p. 211.

[3] Rollo, p. 347.

[4] Rollo, p. 114.

[5] Rollo, p. 116.

[6] Exhibit "A", Rollo, p. 112.

[7] Exhibit "I", Rollo, p. 121.

[8] Supra note 5.

[9] Supra note 6.

[10] Exhibit "I", Rollo, p. 121.

[11] Exhibit "K", Rollo, p. 123.

[12] Resolution No. 289-68, Supra note 4.

[13] See Resolution No. 086 series of 2010, Rollo, p. 242.

[14] Habagat Grill vs. DMC-Urban Property Developer, Inc., GR No. 155110, 31 March 2005, 454 SCRA 653.

[15] Corpuz vs. Agustin, GR No. 183822, 18 January 2012, 663 SCRA 350.

[16] Spouses Palada vs. Solidbank, Corp., GR No. 172227, 29 June 2011, 653 SCRA 10.

[17] See Certification of Posting, Rollo, p. 126.

[18] See Letter dated 01 August 2008, Rollo, p. 66.

[19] See Answer, paragraph 17, Rollo, p. 50.

[20] See Rollo, p. 117.

[21] Rollo, p. 122.

[22] Pintiano-Anno vs. Anno and Suanding, GR No. 163743, 27 January 2006, 480 SCRA 419.

[23] See Resolution No. 409 series of 2011, Rollo, p. 335.

[24] Order dated 28 August 2012, Rollo, p. 367.

[25] Supra note 23.

[26] Supra note 24.

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