

INTESTATE ESTATE OF MANUEL S. GUERRERO, REPRESENTED BY ITS ADMINISTRATOR GUILLERMO T. GUERRERO, PETITIONER, VS. JUN TAKATA A.K.A JUN TACATA AND ALL PERSONS CLAIMING RIGHTS UNDER...

Ponente: GARCIA, R.R., J.

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GARCIA, R.R., J.:

Before Us is a Petition for Review[1] assailing the Decision[2] dated September 12, 2013 of the Regional Trial Court (RTC), Branch 258, Parañaque City which affirmed the Decision[3] dated October 23, 2012 of the Metropolitan Trial Court (MeTC), Branch 77, Parañaque City dismissing the unlawful detainer case filed by petitioner Intestate Estate of Manuel S. Guerrero, represented by its administrator[4] Guillermo T. Guerrero, against respondent Jun Takata a.k.a Jun Tacata and all persons claiming rights under him.

THE FACTS

The instant case stemmed from a complaint[5] for unlawful detainer filed on March 29, 2012 by petitioner against respondent before the MeTC of Parañaque City.

Petitioner, represented by its administrator Guillermo T. Guerrero, alleged in its complaint that it is the registered owner of two (2) adjacent parcels of land located at San Antonio Valley II each measuring 1,749 sq. mts. and covered by Transfer Certificate of Title (TCT) Nos. T-130449[6] (Lot 3695-A) and T-130515[7] (3695-K) under the name Intestate Estate of Manuel S. Guerrero. The property has a verified and approved plan by the Land and Management Bureau as early as 1996. Respondent Jun Takata a.k.a Jun Tacata is occupying portions of the said land by mere tolerance of petitioner for several years. He has fenced the property, constructed a small hut and placed small cages to house his chickens and roosters as shown by the pictures[8] taken thereat. His stay, however, is with the understanding that he would demolish the structures and leave the premises upon demand. Since petitioner already needs the property for its own use, the estate's administrator wrote a demand letter[9] dated October 27, 2011 to respondent giving him fifteen (15) days upon receipt thereof to vacate the premises. Respondent received the letter but refused to sign the same. Petitioner caused Geodetic Engineer Rommel Bautista to determine the exact area of respondent's encroachment and came up with a certification[10] and relocation plan[11] which both state that respondent is occupying a total area of 337 sq. mts. Hence, petitioner prayed that respondent and all persons claiming rights under him to peacefully vacate and turn over the possession of the subject premises to the Intestate Estate of Manuel S. Guerrero; to demolish all the illegal constructions respondent erected in the said premises; and to pay P5,000.00 a month as reasonable compensation for the use of the lot until the same is vacated plus P50,000.00 as attorney's fees.

In an Answer[12] filed on May 7, 2012, respondent claims that petitioner has no cause of action against him because it is not the owner of the alleged encroached lot. His spouse Tessie C. Guillermo owns the three (3) parcels of land being occupied by them, although two (2) of the said titles are still in the names of BPI Leasing Corporation and San Antonio Development Corporation. The technical description of the three (3) titles and the

Subdivision Survey for San Antonio Valley II secured from the Land Registration Authority would readily show the existence of a creek beside the three (3) lots owned by respondent and his wife. Since 1980, they have been living in the aforesaid address. They later fenced the dried creek which is the property being claimed by petitioner. Respondent also attached a certified true copy of the surveyor's certificate showing that there is indeed a creek six (6) meters width along his property. The certificate was taken from the application for registration by the former owner, Filomena Pagsisihan, of the 38,941 sq. mts. now San Antonio Valley No. II. As counterclaim, respondent prayed that petitioner be ordered to pay him P200,000.00 as moral damages, P100,000.00 as exemplary damages and P50,000.00 as attorney's fees.

On the basis of the position papers and documentary evidence adduced by the parties, the MeTC rendered a Decision[13] dated October 23, 2012 dismissing the unlawful detainer case filed by petitioner. It ratiocinated that the complaint failed to recite any averments of fact that would substantiate the claim that petitioner tolerated respondent's occupation over the property for several years. To justify an action for unlawful detainer, it is essential that petitioner's supposed acts of tolerance must have been present right from the start of the possession which is later sought to be recovered. There was also no evidence adduced that the property occupied by respondent was the one referred to by petitioner in its complaint. The pertinent portions of the MeTC's decision are quoted:

x x x

In the instant case, the evidence adduced by the plaintiff failed to muster the required quantum to establish its cause of action against the defendant.

It must be noted that in its complaint, plaintiff alleged among others that as owners of the two parcels of lot in question, it tolerated defendant's stay thereon for several years now with the understanding that defendant would demolish the structures he erected thereon and leave the premises upon demand. x x x.

However, plaintiff did not offer any evidence towards such end. Although it presented an affidavit of Engineer Rommel Bautista to show in essence that a survey was conducted on the disputed lots showing some encroachments on the disputed lots and structures or shanties erected thereon (See Exh. I-2) and another one executed by Leo D. Santos on plaintiff's giving of a demand letter to the defendant before this case was filed, no other affidavit of a witness was adduced from among its Exhibits presented, x x x to establish such tolerance of defendant's stay thereon.

Even assuming that there exists sufficient evidence of such tolerance, the complaint must still fail as no evidence was adduced that indeed the property occupied by the defendant was the one referred to by plaintiff in its complaint.

While the title/s presented by the plaintiff as well as the relocation survey show that the plaintiff is the owner of the properties appearing thereat and the metes and bounds thereof respectively, no evidence was likewise adduced to show that the actual areas being claimed by plaintiff are the same as that allegedly encroached by the defendant. The evidence is bereft of any affidavit executed to prove such end. Even the Certification submitted by the said surveyor and the duplicate original copy of the Relocation Survey (Exh. J) failed to indicate any reference at all to defendant's alleged encroachment on plaintiff's properties except that it merely mentioned that shanties were found therein. This appears to be insufficient as the burden lies with the plaintiff to establish its cause of action against the defendant. Verily, as the evidence failed to preponderate in plaintiff's favor, the instant action must fail.

Aggrieved, petitioner appealed to the RTC which, in a Decision[14] dated September 12, 2013, affirmed the decision of the MeTC ruling that petitioner failed to substantiate its allegation that it tolerated respondent's physical possession over the subject property.

Petitioner's motion for reconsideration was likewise denied in an Order[15] dated April 30, 2014.

Hence, the instant Petition for Review in which petitioner raised the following assignment of errors[16], to wit:

I

THE COURT A QUO ERRED IN DISMISSING THE COMPLAINT FOR UNLAWFUL DETAINER FOR LACK OF JURISDICTION.

II

THE COURT A QUO ERRED IN HOLDING THAT PETITIONER DID NOT OFFER EVIDENCE IN SUPPORT OF RESPONDENT'S POSSESSION BY TOLERANCE.

THE ISSUE

The primordial issue for resolution is whether or not the court a quo erred in affirming the decision of the MeTC dismissing the complaint for unlawful detainer filed by petitioner against respondent for occupying a total of 337 sq. mts. of the subject property.

THE RULING

The petition is meritorious.

Petitioner contends the requirement that the complaint should allege as jurisdictional facts, when and how the entry into the property was made, applies only when the issue is the timeliness of the filing of the complaint. However, this is not the issue in this case. His complaint and position paper explicitly mentioned that respondent's stay for several years was by mere tolerance with the understanding that he would demolish the structures upon demand. Clearly, the allegations in the complaint are enough for the MeTC to acquire jurisdiction over it.

We agree with petitioner.

Unlawful detainer is an action to recover possession of real property from one who illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The possession of the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess. An unlawful detainer proceeding is summary in nature, jurisdiction of which lies in the proper municipal trial court or metropolitan trial court. The action must be brought within one year from the date of last demand and the issue in said case is the right to physical possession.[17]

A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

(1)

Initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;

(2)

Eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;

(3)

Thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and

(4)

Within one year from the last demand on defendant.

Well-settled is the rule that what determines the nature of the action as well as the court which has jurisdiction over the case are the allegations in the complaint. In ejectment cases, the complaint should embody such statement of facts as to bring the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol evidence.[18]

In the instant case, petitioner's allegations in the complaint clearly makes out a case for unlawful detainer essential to confer jurisdiction over the subject matter on the MeTC. The pertinent portions of petitioner's complaint are quoted:

C O M P L A I N T

x x x

- The plaintiff is the registered owner of two (2) parcel of lot located at San Antonio Valley 1 measuring 1,749 square meters each lot and covered by Transfer Certificate Title Nos. T-130449 and T-130515 which have a verified and approved plan by the Land Management Bureau as early as 1996. Certified true copies of said titles are hereto attached as Annexes "B" and "C" and the certified true copy and clearer Xerox copy of verified/approved plan as Annex "D" and "D-1".

- The defendant is occupying portions of said parcels of land by fencing it, constructing a small hut and placing small cages to house his chickens and roosters and has been using and staying there for several years by mere tolerance of herein plaintiff with the understanding that he would demolish the structures and leave the foregoing premises upon demand of the plaintiff. Pictures of the defendant's structures consisting of a fence, small hut and cages for his chickens/roosters are hereto attached as Annexes "E", "F" and "G";

- Since the plaintiff needs the property for its own use, the Plaintiff wrote a demand letter dated October 27, 2011 to the Defendant Jun Takata, giving said defendant fifteen (15) days upon receipt of the letter to vacate the premises which was received by the Defendant on the same date but he refused to sign the same. Photocopy of the Demand Letter is hereto attached as Annex "H";

- Plaintiff has caused Surveyor Engineer Rommel Bautista to determine the exact area of defendant's encroachment and came up with a certification and relocation plan which states that defendant is occupying a total area of Three Hundred Thirty Seven (337) square meters. Said certification and relocation plan are hereto attached as Annexes "I", "I-1" and "J"; (Emphasis supplied)

As above mentioned, petitioner alleged that it is the owner of the two (2) parcels of lot where respondent is occupying portions thereof; that respondent is using and staying therein for several years by mere tolerance of herein petitioner with the understanding that he would demolish the structures and leave the premises upon demand of petitioner; petitioner, through its administrator, sent a demand letter dated October 27, 2011 to respondent giving him fifteen (15) days upon receipt thereof to vacate the premises, but he refused to do so. The complaint was filed on March 29, 2012 or within one year from the time the last demand to vacate was made by petitioner.

As correctly cited by petitioner, this was the same findings made by the Supreme Court in the case of Delos Reyes vs. Spouses Odonos[19] where it held that the allegations in the complaint therein demonstrate a cause of action for unlawful detainer. We quote:

Contrary to the findings of the RTC and the CA, petitioner's allegations in the complaint clearly makes out a case for unlawful detainer, essential to confer jurisdiction over the subject matter on the MTC. Petitioner alleges that she is the owner of the lot, as shown by TCT No. 392430, issued by the Registry of Deeds of

Tarlac; that respondents are occupying the lot by virtue of petitioner's tolerance; and that petitioner sent a letter to respondents on June 17, 2005, demanding that they vacate the property, but they failed and refused to do so. The complaint was filed on July 12, 2005, or within one year from the time the last demand to vacate was made.

Firm is the rule that as long as these allegations demonstrate a cause of action for unlawful detainer, the court acquires jurisdiction over the subject matter.

In like manner, it is not required that petitioner avers, as jurisdictional facts, in the complaint as to when and how entry into the property was made because the timeliness of the filing of the complaint was never an issue before the MeTC. This has been explicitly ruled upon by the Supreme Court in *Canlas v. Tubil*[20] because in forcible entry cases, the prescriptive period is counted from the date of defendants' actual entry into the property whereas, in unlawful detainer cases, it is counted from the date of the last demand to vacate. Hence, to determine whether the case was filed on time, there is a necessity to ascertain whether the complaint is one for forcible entry or for unlawful detainer. Since the main distinction between the two actions is when and how defendant entered the property, the determinative facts should be alleged in the complaint.[21]

The same jurisprudential finding was echoed in the case of *Javelosa vs. Court of Appeals*[22] where the Supreme Court held:

The ruling in the *Sarona* case cited by petitioner i.e., that a complaint for unlawful detainer should allege when and how entry on the land was made by the defendant, finds no application to the case at bar. In *Sarona*, the main issue was the timeliness of the filing of the complaint before the MTC. In forcible entry cases, the prescriptive period is counted from the date of defendant's actual entry on the land; in unlawful detainer, from the date of the last demand to vacate. Hence, to determine whether the case was filed on time, there was a necessity to ascertain whether the complaint was one for forcible entry or unlawful detainer. In light of these considerations, the Court ruled that since the main distinction between the two actions is when and how defendant entered the land, the determinative facts should be alleged in the complaint. Thus, in *Sarona*, the jurisdiction of the MTC over the complaint was never in issue for whether the complaint was one for forcible entry or unlawful detainer, the MTC had jurisdiction over it. x x x.

Petitioner's tolerance over the physical occupation of respondent on the subject property was clearly substantiated by several pictures[23] of the latter's fence, small hut and cages for his chickens and roosters. In fact, respondent admitted in his Answer[24] that he has been staying on the property since 1980, bolstering petitioner's claim that the former has been there for several years. Respondent's possession was also shown by the certification and relocation plan issued by Geodetic Engr. Rommel Bautista stating that after his relocation survey on the property on December 6, 2011, he confirmed that there were encroachments on the northern portion of TCT No. 130449 (Lot 3695-A) by an area of 107 sq. mts. occupied by shanties and on the southern portion by an area of 169 sq. mts. fenced by old G.I. Sheets.[25] There were also encroachments on the eastern portion of TCT No. 130515 (Lot 3695-K) by an area of 168 sq. mts. fenced by old G.I. Sheets.[26]

Having established that the allegations in the complaint clearly make out a case for unlawful detainer, this Court shall now discuss the merits of petitioner's claim.

After due consideration of the evidence presented by the parties and the applicable jurisprudence, We find petitioner to have a superior right of possession over the subject property.

In an unlawful detainer case, the sole issue for resolution is physical or material possession of the property involved, independent of any claim of ownership by any of the parties.[27] However, where the issue of ownership is raised by any of the parties, the courts may pass upon the same in order to determine who has the right to possess the property.[28] The adjudication is merely provisional and would not bar or prejudice an action

between the same parties involving title to the property.[29] The reason for this rule is to prevent the defendant from trifling with the summary nature of an ejectment suit by the simple expedient of asserting ownership over the disputed property.[30]

As both parties herein raise the issue of ownership in the unlawful detainer case, jurisprudence[31] is replete that its resolution boils down to which of their respective documentary evidence deserves more weight. 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.[32]

In the case at bench, the record shows that petitioner owns the property on the basis of TCT Nos. T-130449[33] and T-130515[34] both issued in the name of "Intestate Estate of Manuel S. Guerrero" on September 12, 1997. It is settled that a Torrens title is evidence of indefeasible title to property in favor of the person in whose name the title appears.[35] It is conclusive evidence with respect to the ownership of the land described therein. It is also settled that the titleholder is entitled to all the attributes of ownership of the property, including possession.[36] Thus, in *Arambulo vs. Gungab*[37], the Supreme Court declared that the "age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof".[38] Hence, as the registered owner of the subject property, petitioner is preferred to possess it.[39]

In addition to the Torrens titles, petitioner also presented the following documents: a) Subdivision Plan of Lot 3695[40] prepared on September 25, 1996; b) Subdivision Plan of Lot 3695[41] prepared on September 16, 1996 by Geodetic Engineer Felix Ronda; and c) pictures of the property. Petitioner also presented Certifications and the Location Plan of Lot 3695 which was prepared on December 2, 2011 and signed by Geodetic Engr. Rommel T. Bautista showing the encroachments made by respondent on the subject property. Engr. Bautista executed his Affidavit[42] stating that he indeed re-surveyed the two lots and confirmed respondent's occupation of 169 sq. m. in the northern portion of TCT No. T-130449 (Lot 3695-A) and another 168 sq. m. in the eastern portion of TCT No. T-130515 (Lot 3695-K).

Petitioner also attached tax declarations and payment of taxes[43] due on the subject property. These constitute further proof that the holder has a claim of title.[44] The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government.[45] Such an act strengthens one's bona fide claim of acquisition of ownership.[46]

The record shows that petitioner's title could be traced from a mother title under Original Certificate of Title (OCT) No. 98-172[47] which was registered in the name of Intestate Estate of Manuel S. Guerrero on September 6, 1977. Pursuant to the subdivision plan, the land was subdivided into ten (10) lots known to be as Lots 3695-A to 3695-K per approved plan Psd-00-041966 together with its corresponding technical description made by Felix Ronda, Geodetic Engineer and approved by the Land Management Bureau dated October 30, 1996.[48] Consequently, ten (10) separate titles, namely: TCT Nos. 130449-58, inclusive, were issued in favor of the Intestate Estate of Manuel S. Guerrero while its mother title under OCT No. 98-172 was totally canceled.[49]

Based on the foregoing documents, We find that there is preponderance of evidence fortifying petitioner's claim of ownership over the land and are thus entitled to its possession.

In view of the overwhelming evidence presented by petitioner, all that respondent could allege was that his wife allegedly owns the subject property as shown by three (3) different titles. However, only one of the titles, specifically TCT No. 48346[50] containing an area of 216 sq. mts. and issued on November 29, 1990, was in the name of his wife Tessie C. Guillermo. The other two (2) are in the names of BPI Leasing Corporation and San

Antonio Development Corporation. Further, there is no merit to respondent's position that the land being claimed by petitioner is the dried creek which he fenced. The subdivision survey, the surveyor's certificate, and application for registration submitted by respondent over the alleged dried creek are not under his name but refer to some other persons. The insufficient evidence presented by respondent could therefore not affect herein petitioner's superior right to possess the property. Clearly, the preponderance of evidence militates in favor of petitioner's complaint for the ejectment of respondent.

We stress, however, that this Court's adjudication of ownership in an ejectment case is merely provisional, and affirmance of the trial court's decision would not bar or prejudice an action between the same parties involving title to the property, if and when such action is brought seasonably before the proper forum.[51] The determination made herein as regards petitioner's ownership of the lot by virtue of TCT No. T-130449[52] and T-130515[53] is only *prima facie* and only for purposes of resolving the issue of physical possession.

This Court also finds that petitioner is entitled to damages caused by his loss of the use and possession of the premises from the time of demand. Damages in the context of Section 17, Rule 70 of the 1997 Rules of Civil Procedure is limited to "rent" or fair rental value or the reasonable compensation for the use and occupation of the property. We quote:

Sec. 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. (Emphasis supplied)

Given the size of the encroachment made by respondent of 337 sq. mts. and its strategic location in Paranaque City, Metro Manila, the amount prayed by petitioner of P5,000.00 per month from October 27, 2011 until the possession of the subject lots shall have been completely restored to petitioner should be considered reasonable compensation for the occupation of the property.

We also find it proper to award attorney's fees of P10,000.00 in favor of petitioner who was constrained to litigate to protect their interest due to the unwarranted refusal of respondent to vacate and surrender possession of the premises in question.

WHEREFORE, premises considered, the instant petition for review is hereby GRANTED. The Decision dated September 12, 2013 of the Regional Trial Court, Branch 258, Parañaque City in Civil Case No. 12-0363 is REVERSED AND SET ASIDE. In lieu thereof, a new one is being entered ORDERING respondent Jun Takata a.k.a Jun Tacata and all persons claiming rights under him the following:

- (1) to vacate the subject lot and peacefully surrender the possession thereof to herein petitioner Intestate of Estate of Manuel S. Guerrero, represented by its administrator Guillermo T. Guerrero;
- (2) to pay petitioner the amount of Five Thousand Pesos (P5,000.00) per month from October 27, 2011 until the possession of the subject lots shall have been completely restored to petitioner as reasonable compensation for the use and occupation thereof; and
- (3) to pay the amount of Ten Thousand Pesos (P10,000.00) as attorney's fees.

SO ORDERED.

Salazar-Fernando, R.A., (Chairperson), and Bueser, D.,Q., JJ., concur.

- [1] Rollo, pp. 10-26.
- [2] Decision penned by Presiding Judge Noemi J. Balitaan, Rollo, pp. 29-35.
- [3] Decision penned by Assisting Judge Bibiano G. Colasito, Rollo, pp. 121-126.
- [4] Rollo, p. 28.
- [5] Rollo, pp. 63-67.
- [6] Rollo, pp. 36-37.
- [7] Rollo, pp. 38-39.
- [8] Rollo, pp. 51-53.
- [9] Rollo, p. 54.
- [10] Rollo, pp. 57-61.
- [11] Rollo, pp. 59-60.
- [12] Rollo, pp. 68-72.
- [13] Supra, note 3.
- [14] Supra, note 2.
- [15] Rollo, pp. 34-35.
- [16] Rollo, p. 13.
- [17] Corpuz v. Spouses Agustin, G.R. No. 183822, January 18, 2012 citing the case of Canlas v. Tubil, G.R. No. 184285, September 25, 2009.
- [18] Corpuz v. Spouses Agustin, G.R. No. 183822, January 18, 2012 citing the case of Canlas v. Tubil, G.R. No. 184285, September 25, 2009.
- [19] G.R. No. 178096, March 23, 2011.
- [20] G.R. No. 184285, September 25, 2009.
- [21] Ibid.
- [22] 333 Phil. 331, 340 (1996).
- [23] Rollo, pp. 51-53.
- [24] Rollo, p. 69.
- [25] Rollo, p. 57.
- [26] Rollo, p. 58.
- [27] Spouses Barias v. Heirs of Boneo, G.R. No. 166941, December 14, 2009.

[28] Ibid.

[29] Ibid.

[30] Soriente v. Estate of Concepcion, G.R. No. 160239, November 25, 2009.

[31] Spouses Barias v. Heirs of Boneo, G.R. No. 166941, December 14, 2009; Spouses Pascual v. Spouses Coronel, G.R. No. 159292, July 12, 2007.

[32] Arbizo v. Spouses Santillan, G.R. No. 171315, February 26, 2008.

[33] Rollo, pp. 36-37.

[34] Rollo, pp. 38-39.

[35] Vda. De Aguilar v. Spouses Alfaro, G.R. No. 164402, July 5, 2010.

[36] Ibid.

[37] Arambulo v. Gungab, G.R. No. 156581, September 30, 2005.

[38] Vda. De Aguilar v. Spouses Alfaro, G.R. No. 164402, July 5, 2010.

[39] Arambulo v. Gungab, G.R. No. 156581, September 30, 2005.

[40] Exhibit "D-1".

[41] Exhibit "D-2".

[42] Rollo, p. 61.

[43] Rollo, pp. 43-50.

[44] Spouses Booc v. Five Star Marketing Co., Inc., G.R. No. 157806, November 22, 2007.

[45] Ibid.

[46] Ibid.

[47] Rollo, pp. 40-42.

[48] Entry No. 384 of OCT No. 98-172, Rollo, p. 42.

[49] Entry No. 385 of OCT No. 98-172, Rollo, p. 42.

[50] Rollo, pp. 73-74.

[51] Soriente v. Estate of Concepcion, G.R. No. 160239, November 25, 2009.

[52] Rollo, pp. 36-37.

[53] Rollo, pp. 38-39.

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