

**JULIUS CARDINAL, ELVIRA PI-IW CARDINAL, HELEN BA-AW  
GULLAYAN AND LIGAYA WANDAGA, PETITIONERS, V. EPISCOPAL  
DIOCESE OF NORTHERN LUZON REPRESENTED BY RT. REV. BISHOP  
RENATO ABIBIC...**

Ponente: TIJAM, J.

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**TIJAM, J.:**

On Appeal[1] before Us is the May 31, 2012 Decision[2] of the Regional Trial Court, Second Judicial Region, Branch 25, of Tabuk, Kalinga, affirming the November 4, 2011 Decision,[3] of the MCTC, Balbalan-Pasil, Balbalan Kalinga in Civil Case No. 850.

The facts of the case are as follows:

On June 11, 2011, Respondent-Episcopal Diocese of Northern Luzon (EDNL), represented by Rt. Rev. Bishop Renato Abibico (Bishop Abibico) filed a “Complaint (for forcible entry with prayer for writ of preliminary injunction and issuance of temporary restraining order and for damages),” before the MCTC of Balbalan-Pasil against Petitioners over a parcel of land located in Talalang, Balbalan, Kalinga, with an area of 1,712 square meters (m[2]) more or less covered by Tax Declaration No. 2002-01013-00465[4] (cancelled Tax Declaration No. 2001-01013-00465).

Respondent averred that it owns the subject parcel of land which was initially donated by Latawan and Circiaco Gonayon to Santos Wacal, who in turn, sold the same to Father Theodore Saboy. Sometime in 1960, Father Theodore Saboy donated the subject property to Respondent.

Since then, Respondent claimed that it had been in continuous, notorious, and open possession of the subject property. After its compliance with the Tax Mapping Project mandated by Republic Act 7160, neither the boundaries nor the land area of the subject property were altered and amended.

Controversy arose when Petitioners allegedly, by use of force, intimidation, stealth, and strategy constructed pigpens inside the subject property on September 21, 2010. Upon learning of said intrusion, Respondent's Rector immediately pleaded with Petitioners to dismantle the said pigpens; however, his efforts were unheeded. Worse, Petitioners, together with hired men, allegedly cut the fruit-bearing trees and built a house inside the subject property. Thus, Respondent sought the intercession of their barangay officials.

Due to failure to amicably settle their differences, the barangay chairman issued a Certificate to File Action,[5] in Respondent's favor. Consequently, Respondent filed the instant Complaint, attaching thereto the Tax Declaration No. 2002-01013-00465,[6] and the affidavits of James Ambakil, Leonard Gamay and Mary Gulawan to prove prior physical possession.

On the other hand, Petitioners alleged in their Answer,[7] that the late Bula-ay, grandfather of Petitioners Helen Gullayan and Ligaya Wandaga and great grandfather of Petitioners Julius Cardinal and Elvira Pi-iw, owned the subject property. They claimed that Bula-ay only donated to the Domestic and Foreign Missionary Society of the

Protestant, Episcopal Church of the U.S.A., (Missionary Society) 608 m[2] more or less as evidenced by Tax Declaration No. 11831,[8] thus, their family retained ownership of the remaining lot now covered by Tax Declaration No. 01-0013-1225.[9] Petitioners averred that the land area of the property donated expanded from 608 m[2] to 1,712 m[2] due to inadvertence committed by Augustus Kibayen,[10] who made the Tax Mapping over the subject property.

Petitioners alleged that Respondent never had actual physical possession of the whole property covered by Tax Declaration No. 2002-01013-00465; and that it was their ancestors who occupied the same and constructed pigpens and planted fruit-bearing trees on the disputed property long before a portion thereof was donated to Respondent. To prove prior physical possession of the subject property, Petitioners presented and offered as evidence Santos Wacal's duly notarized Statement of Assets, Income and Liabilities,[11] Certificate of Ancestral Land Title (CALT),[12] and the Affidavits of several witnesses including George Pi-iw[13] and Ciriaco Gonayon.[14]

When the Petitioners learned that the subject property covered by Tax Declaration No. 11831 had increased in area as appearing in its Tax Declaration No. 2002-01013-00465, they instantly filed a "Petition for Correction of Tax Declaration,"[15] before the Office of the Provincial Assessor of Kalinga.

Mrs. Irene Sura-it, Chief of the Records Management Division and the Local Assessment Operations Officer of the Provincial Assessor's Office, testified during the clarificatory hearing that the "Petition for Correction of Tax Declaration," was filed on September 2009. She claimed that she referred the matter to the Municipal Assessor's Office for implementation but the office did not act on it.[16] Mrs. Sura-it further testified that Petitioners were in actual possession of the area when they conducted the ocular inspection. She, however, candidly admitted on cross-examination that they failed to notify the adjoining lot owners and the adverse party of the said petition. Neither did she inform the Municipal Assessor's Office nor the concerned barangay officials of the ocular inspection.

On November 4, 2011, the MCTC of Balbalan-Pasil rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, there being preponderance of evidence for the plaintiff, defendants JULIUS CARDINAL, ELVIRA PI-IW CARDINAL, HELEN GULLAYAN and LIGAYA WANDAGA are hereby ordered to vacate the property; to restore the plaintiff in its peaceful possession of the disputed property and to remove at all cost the structures they made on the premises."

Dissatisfied with the MCTC Decision, Petitioners elevated the case on appeal before the RTC, 2nd Judicial Region, Branch 25, of Tabuk, Kalinga. On May 31, 2012, the RTC rendered a Decision, affirming the MCTC's Decision.

Consequently, Petitioners filed this Petition for Review under Rule 42 of the Rules of Court, raising the following issues:

1. Whether or not the Regional Trial Court, Branch 25, Tabuk, Kalinga erred when it recognized the proceedings that took place in the court of origin-municipal circuit trial court (MCTC) of Balbalan-Pasil, Kalinga which applied the rule on ordinary civil procedures instead of the Rules on Summary Procedure;
2. Whether or not the Regional Trial Court, Branch 25, Tabuk, Kalinga erred when it affirmed the issuance by the court of origin (MCTC) of an extendible temporary restraining order in direct violation of the Revised Rules on Civil Procedures and established jurisprudence;
3. Whether or not the Regional Trial Court, Branch 25, Tabuk, Kalinga erred when it affirmed the decision of the MCTC in not dismissing outright the Complaint of Forcible Entry because it was fatally defective for being

unauthorized;

4. Whether or not the Regional Trial Court, Branch 25, Tabuk, Kalinga erred when it affirmed the MCTC's decision that Respondent enjoys prior physical possession over the lot in dispute;

5. Whether or not the Regional Trial Court, Branch 25, Tabuk, Kalinga erred when it affirmed the MCTC's decision that there was a case of forcible entry;

6. Whether or not the Regional Trial Court, Branch 25, Tabuk, Kalinga erred when it affirmed the factual findings of the MCTC.

The petition is meritorious.

Petitioners' claim that the RTC gravely erred in affirming the MCTC Decision when it applied the Rules on Ordinary Civil Procedures in the instant case deserves consideration. Petitioners pointed out that the MCTC should have required the Parties to submit their respective position papers before it conducted clarificatory hearings after the pre-trial.

Section 11 of the Revised Rule on Summary Procedure expressly provides that:

“Section 11. Rendition of Judgment. - Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

The court shall not resort to clarificatory procedure to gain time for the rendition of the judgment.” (Emphasis supplied).

Based on the above-cited provision, courts can only resort to clarificatory procedure after the parties submit their respective affidavits and position papers. Here, the MCTC conducted clarificatory hearings in lieu of requiring the parties to submit their affidavits and positions papers.

While it is true that the issues raised and discussed during the clarificatory hearings are germane to the disposition of the case, however, the MCTC's non-compliance with the above-cited mandatory provision rendered its proceeding nugatory as it clearly transgressed the specific provision of the Rules of Court on summary procedure. As the Supreme Court explained in *Teroña v. Hon. Antonio de Sagun*:<sup>[17]</sup>

“The strict adherence to the reglementary period prescribed by the RSP [Rules on Summary Procedure] is due to the essence and purpose of these rules. The law looks with compassion upon a party who has been illegally dispossessed of his property. Due to the urgency presented by this situation, the RSP provides for an expeditious and inexpensive means of reinstating the rightful possessor to the enjoyment of the subject property. This fulfills the need to resolve the ejectment case quickly.”

Furthermore, the MCTC also violated the Revised Rules of Court when it granted Respondent's request for TRO for an indefinite period.

It is well-settled that a TRO shall be effective only for a period of 20 days from notice to the party or person sought to be enjoined. During the 20-day period, the judge must conduct a hearing to consider the propriety of issuing a preliminary injunction. If no action is taken by the said judge on the application for preliminary injunction within the said 20 days, the TRO would automatically expire on the 20<sup>th</sup> day by the sheer force of law, no judicial declaration to that effect being necessary.<sup>[18]</sup> Clearly, the MCTC erred when it did not lift the

TRO it granted in favor of the Respondent upon the expiration of the 20-day period.

Petitioners also correctly pointed out that the RTC erred in affirming the MCTC's Decision for not outrightly dismissing Respondent's Complaint on the ground that Bishop Abibico has no authority to file the case on behalf of the Respondent.[19]

The verification and certification against forum shopping which Bishop Abibico signed did not bind the EDNL as he failed to offer and present as evidence his Special Power of Attorney to prove the agency, or his notarized commission, certificate of election, or letters of appointment,[20] to prove his legal capacity to act as EDNL's trustee.

In *Tamondong vs. Court of Appeals*,[21] the Supreme Court categorically stated that “[i]f a complaint is filed for and in behalf of the plaintiff [by one] who is not authorized to do so, the complaint is not deemed filed. An unauthorized complaint does not produce any legal effect x x x. This ruling was reiterated in *Cosco Philippines Shipping, Inc. vs. Kemper Insurance Company*,[22] where the Court went on to say that “[i]n order for the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties. Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint, and to be bound by a decision, a party should first be subjected to the court's jurisdiction.[23]

We now discuss on the merits of the case.

For a forcible entry suit to prosper, the complainant must allege and prove that he was in prior physical possession of the property and that he was deprived of such possession by means of force, intimidation, threat, strategy, or stealth. 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.[24]

Here, it is significant to note that it was Petitioners, and not the Respondent who were able to present conclusive evidence of prior physical possession. The duly notarized Statement of Assets, Income and Liabilities of Santos Wacal,[25] father of Petitioners Helen Gullayan and Ligaya Wandaga and uncle of Petitioners Julius Cardinal and Elvira Pi-iw; Certificate of Ancestral Land Title (CALT); and the uncontroverted declarations of George Pi-iw[26] and Ciriaco Gonayon[27] together with the testimony of Mrs. Irene Sura-it, (despite her failure to notify the adjoining lot owners and the adverse party of the said petition and to inform the Municipal Assessor's Office and the concerned barangay officials of the ocular inspection), have greater evidentiary value than the mere testimonies of Vicente Gooban and Gabriel Sagamang as well as the alleged fake Affidavits of James Ambakil, Leonard Gamay and Mary Gulawan submitted by Respondent.

We likewise agree with Petitioners' allegations that both the MCTC and the RTC erroneously relied on Tax Declaration No. 2002-01013-00465.

It must be stressed that Tax Declaration No. 2002-01013-00465, which originated from Tax Declaration No. 11831, were both issued without any supporting written document since the parties merely entered into an oral contract. If it was true that the land area of the property acquired by Respondent from Petitioners was indeed 1,712 m<sup>2</sup> and not 608 m<sup>2</sup>, the Respondent could have outrightly stated it in Tax Declaration No. 11831; unfortunately, it did not. Instead of immediately correcting the alleged error, Respondent skeptically waited for more than 50 years to rectify the mistake without adducing convincing reason for such delay or inaction. At any rate, tax declarations and realty tax payments are not conclusive proof of possession.[28] They are merely good indicia of possession[29] in the concept of owner but not necessarily of the actual possession required in forcible entry cases.

Be that as it may, We find the evidence presented by Petitioners to prove their prior physical possession more convincing than the two suspicious Tax Declarations and the Affidavits of James Ambakil, Leonard Gamay and Mary Gulawan which Respondents offered in evidence. Thus, Petitioners, are entitled to possess the subject property.

WHEREFORE, the petition is GRANTED. The Decision dated May 31, 2012 of the Regional Trial Court, Second Judicial Region, Branch 25, Tabuk, Kalinga, in Civil Case No. 850 which affirmed in toto the Decision, dated November 4, 2011 of the MCTC, Balbaran-Pasil is hereby SET ASIDE.

**SO ORDERED.**

Baltazar-Padilla and Sorongon[\*], JJ., concur.

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[\*] vice J. Reyes-Carpio, per Office Order No. 200-14-ABR, dated May 9, 2014.

[1] Rollo, p. 5.

[2] Rollo, p. 168.

[3] Rollo, p. 157.

[4] Rollo, p. 103.

[5] Not attached in the record.

[6] Rollo, p. 103.

[7] Rollo, pp. 36-44.

[8] Rollo, p. 102.

[9] Rollo, p. 103.

[10] Not attached in the record but was quoted in the MCTC Decision.

[11] Rollo, p. 110.

[12] Rollo, p. 101.

[13] Rollo, p. 46.

[14] Rollo, p. 48.

[15] Rollo, p. 105.

[16] TSN, pp. 193-195.

[17] Atty. Manuel J. Jimenez, Jr. vs. Judge Michael M. Amdengan, Presiding Judge, Municipal Trial Court, Angono, Rizal, A.M. No. 12-1818, February 13, 2013.

[18] Miguel M. Llamzon vs. Alma Florence Logronio, Nestor Hun Nadal and Nicanor Olivar constituting the Philippine Economic Zone Authority Central Board of Inquiry, Investigation and Discipline (PEZA-CBIID), PEZA Special Prosecutor Norma Cajulis and PEZA Director General Lilia de Lima, G.R. No. 167745, June 26, 2007.

[19] Section 5, Rule 70 Rules of Court. - The court may from examination of the allegations in the complaint and

such evidence as may be attached thereto, dismiss the case outright on any of the grounds for the dismissal of a civil action which are apparent therein. If no ground for dismissal is found, it shall forthwith issue summons. (Emphasis supplied).

[20] Section 114. Corporation Code. Filling of vacancies. - The successors in office of any chief archbishop, bishop, priest, minister, rabbi or presiding elder in a corporation sole shall become the corporation sole on their accession to office and shall be permitted to transact business as such on the filing with the Securities and Exchange Commission of a copy of their commission, certificate of election, or letters of appointment, duly certified by any notary public. x x x (Emphasis supplied).

[21] G.R. No. 158397, November 26, 2004. [Italics and Emphasis Supplied].

[22] G.R. No. 179488, April 23, 2012. [Italics Supplied].

[23] Atty. Fe Q. Palmiano-Salvador vs. Constantino Angeles, substituted by Luz G. Angeles, G.R. No. 171219, September 3, 2012. [Italics Supplied].

[24] Rollo, p. 110.

[25] Rollo, p. 46.

[26] Rollo, p. 48.

[27] Nenita Quality Foods Corporation vs. Crisostomo Galabo, Adelaida Galabo and Zenaida Galabo- Almacbar, G.R. No. 174191, January 30, 2013.

[28] Valiao vs. Republic of the Philippines, et. al., G.R. No. 170757, November 28, 2011.

[29] Ibid.

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