

FLORENTINO PANGILINAN, EDILBERTO PANGILINAN, GERMAN PANGILINAN, ALEJA PANGILINAN, FORTUNATO ANGELES, FORTUNATO SANGIL, TROADIO SANTOS, VIRGINIA DAVID, CARLITO DAVID, EUGENIO DAV...

G.R. No. L-29275. January 31, 1972

Ponente: MAKASIAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ded82dcd07f6/>

MAKASIAR, J.:

This petition for certiorari and prohibition with preliminary injunction seeks to set aside the proceeding had by the respondent judge of the Court of First Instance of Pampanga, Branch III in connection with civil case no. 3221; to restrain the respondent judge from hearing the case in an appellate capacity and from issuing further writs of execution and/or demolition and instead to require him to hear the case under its original jurisdiction by directing the parties to file their appropriate pleadings therein; to restrain respondents Marcelo Mendiola, clerk of court of branch III, CFI of Pampanga, and city sheriff Alejandro Sun of the City Court of Angeles, or any of his deputies, from carrying into effect any writ of execution and/or demolition which the respondent judge may or might issue in the premises; and to order the respondents-spouses to pay the costs of the suit, (p. 16, rec.).

In a resolution dated July 26, 1968, we required respondents to file their answer, not a motion to dismiss, within ten (10) days from receipt of notice; and with respect to the petition for preliminary injunction, to issue the writ prayed for, upon filing by petitioners of a bond in the amount of P1,000.00 (p. 70, rec.). Respondents subsequently filed the required bond and the same was approved by this Court on August 27, 1968 and the necessary writ was forthwith issued on same date (p. 100, rec.).

The records disclosed that herein private respondents (spouses Jose Pangilinan and Beatriz Henson) are plaintiffs in Civil Case No. C-54 for unlawful detainer which they filed on May 4, 1964 against herein petitioners (defendants in the lower court) involving a parcel of land — Lot No. 681 of the Cadastral Survey of Angeles City. Herein private respondents acquired said lot "by purchase from the Valdez family on August 15, 1963 (Exh. "B") and their * * * Torrens Title No. 34805-R (Exh. "C"), issued on September 9, 1963." Thereafter, respondents had the corners of said lot relocated by a surveyor and discovered that herein petitioners were occupying portions of the lot where their respective houses were erected allegedly through tolerance by the previous owner, from whom respondents acquired the said lot. On March 22, 1964, the respondents gave notice to the herein petitioners to vacate the lot within 15 days therefrom but notwithstanding the expiration of said period, the petitioners refused and failed to leave the premises and remove their respective houses therefrom, which refusal led respondents to institute on May 4, 1964 the detainer case (see Annex "A", pp. 18, 19, and Annex "I", decision of the Angeles City Court, p. 37, rec.).

On December 7, 1964, defendants (herein petitioners) filed a motion to dismiss the complaint for illegal detainer on the grounds that the "(a) the City Court of Angeles has no jurisdiction over the nature of the suit or action; and (b) that the complaint states no cause of action," which motion was opposed by plaintiffs (herein private

respondents) in a pleading dated December 10, 1964. In an order dated February 10, 1964, said motion to dismiss was denied by the judge of the Angeles City Court (p. 28, rec.).

On February 8, 1965, defendants filed a motion for reconsideration of the order denying the motion to dismiss, to which an opposition was filed by the plaintiffs on February 27, 1965. In an order dated April 30, 1965 the court denied the motion for reconsideration dated February 8, 1965 and forthwith set the case for hearing on May 10, 1965 at 9 o'clock in the morning (Annexes "E", "F" and "G", pp. 29-34, rec.).

On May 12, 1965, the defendants filed their answer to the complaint advancing the affirmative defense that the "land in question is part and parcel of the patrimonial property of the State, which they have occupied, used, and possessed, adversely, publicly, and uninterruptedly for a long period under a claim of ownership; hence by right of acquisitive prescription, defendants have acquired ownership over the land in question" (Annex "H", pp. 35-36, rec.).

During the pendency of the detainer case in the Angeles City Court, defendants on May 28, 1965 filed a petition for certiorari and prohibition with injunction with the Court of First Instance of Pampanga, docketed as Civil Case No. 2784 (Annex "A", pp. 77-78, rec.) seeking to nullify the orders dated February 10, 1965 and April 30, 1965 of the city Judge of the Angeles City Court denying the motion to dismiss dated December 11, 1964 (Annex "B", pp. 20-26, rec.) and the motion to reconsider the same dated February 8, 1965 (Annex "E", pp. 29-32, rec.). On June 28, 1965 plaintiffs filed their answer to said petition (Annex "B", pp. 89-92, rec.) and on December 20, 1965, the Court of First Instance of Pampanga rendered judgment upholding the validity of the questioned orders of the Judge of Angeles City Court for the reason that the complaint states a cause of action and the same is within the jurisdiction of the Angeles City Court, and forthwith denied the petition (Annex "C", pp. 93-96, rec.). Defendants appealed to the Court of Appeals, docketed as CA-G.R. No. 37485-R, and on July 19, 1966 were required to file their printed brief, but on October 21, 1966 withdrew their appeal (Annex "D", p. 97, rec.), (see pp. 72-73, rec.).

Thereafter, trial of the detainer case proceeded and on May 8, 1967, the Angeles City Court rendered judgment directing each of the defendants "to immediately vacate lot No. 381 by removing their houses thereon, * * * to pay the plaintiffs the sum of P20.00 a month as reasonable rentals beginning with the month of August, 1963 until he or she finally vacates the premises, * * * jointly and severally, to pay to the plaintiffs the sum of P300.00 as attorney's fees and * * * to pay the cost of the suit" (Annex "I", pp. 37-38, rec.).

Within the period allowed by law, defendants perfected their unqualified appeal with the Court of First Instance of Pampanga, without filing a supersedeas bond. However, they claim in this present petition that their appeal was not for the purpose of recognizing the appellate jurisdiction of the Court of First Instance of Pampanga but for the purpose of elevating the case to said court for trial as if the case has been originally filed before it (see par. 16 of petition, p. 7, rec.).

In a pleading dated January 7, 1968, defendants themselves moved to dismiss their own appeal on the ground that the court of first instance has no appellate jurisdiction over the case for the reason that the Angeles City Court did not have original jurisdiction over the same, but at the same time making a manifestation that they would conform if the court of first instance decides to try the case under its original jurisdiction as one for accion publiciana pursuant to the provision of section 11 of Rule 40 of the Revised Rules of Court. Plaintiffs filed on January 12, 1968 an opposition to the motion to dismiss. In an order dated January 18, 1968, the respondent judge denied the motion for lack of merit (Annexes "J", "K" and "L", pp. 39-47, rec.).

On January 4, 1968, plaintiffs filed a motion for immediate execution, invoking Section 8, Rule 70 of the Revised Rules of Court (Annex "M", p. 48, rec.).

On January 17, 1968, defendants filed their opposition to the motion for immediate execution and contended that immediate execution of the judgment of the Angeles City Court cannot be granted for the reasons that the Angeles City Court did not have jurisdiction over the case, that the issue of title has been raised in the pleadings of both parties, and that the decision of the city court did not make a finding as to the existence of a contract between the parties (Annex "N", pp. 49-53, rec.).

On January 23, 1968, plaintiffs filed their reply to the opposition and contended that the failure of the defendants to file a supersedeas bond or to deposit on time the monthly reasonable rents fixed in the appealed judgment entitles them to immediate execution of the said appealed judgment; that the question of jurisdiction is already a decided matter since the same has been upheld by the Court of First Instance of Pampanga, which denied defendants' petition for certiorari and prohibition with injunction in Civil Case No. 2784, from which they appealed to the Court of Appeals, but which appeal they withdrew (CA-GR No. 37485-R); and that title could not be involved in this case for the reason that the land in question is one covered by a torrens title, which does not prescribe (Annex "O", pp. 54-55, rec.).

On January 26, 1968, defendants filed their rejoinder to the plaintiffs' reply (Annex "P", pp. 56-60, rec.).

In an order dated May 16, 1968, the respondent judge ruled that plaintiffs are entitled to immediate execution of the appealed judgment of the Angeles City Court (Annex "Q", pp. 61-62, rec.); and the writ of immediate execution dated May 20, 1968 was issued, commanding the respondent sheriff of the Angeles City Court, or any of his deputies, to execute the appealed judgment of the Angeles City Court (Annex "R", p. 63, rec.).

On or about May 25, 1968, the respondent city sheriff of Angeles City, or his deputies, went to the houses of the defendants and attempted to enforce the writ of execution but the same was resisted by the defendants on the ground that the same was illegal and invalid (see par. 28 of petition, p. 12, rec.).

On June 12, 1968, defendants filed a motion for reconsideration of the orders dated January 18, 1968 and May 16, 1968, but the same was denied in an order dated July 3, 1968 (Annexes "S" and "T", pp. 64-67, rec.).

Hence, this petition.

I

It should be noted that herein petitioners had earlier filed in the Court of First Instance of Pampanga a petition for certiorari and prohibition with injunction (Civil Case No. 2784) raising the same grounds they interposed in this instant petition. The Court in said Civil Case No. 2784 denied said petition, holding that the complaint was one for unlawful detainer and not one for accion publiciana, and confirming, as a consequence, the jurisdiction of the Angeles City Court to try the case on the merits. Said decision of the Court of First Instance of Pampanga was appealed by the herein petitioners to the Court of Appeals; but the same was withdrawn by them on October 21, 1966 after they were required to file their printed brief. Such withdrawal rendered the said decision final and unappealable as well as conclusive on herein petitioners and estops them from questioning anew the jurisdiction of the Angeles City Court in this present petition.[1] Aware of the adverse effect on their cause of their withdrawal of their appeal to the Court of Appeals, herein petitioners conveniently avoided making mention of the same in this present petition.

II

Petitioners insist that the Angeles City Court has no jurisdiction over the complaint filed against them by herein private respondents, because it does not allege facts showing that the action is for unlawful detainer as it fails to aver prior physical possession of the plaintiffs, any existing contractual relation between the plaintiffs and the defendants, and the filing of the complaint within one year from the time the possession of the defendants became illegal.

It is a settled principle that the complaint for unlawful detainer is sufficient if it alleges that the withholding of possession or the refusal to vacate is unlawful without necessarily employing the terminology of the law;^[2] "and the other details like the one-year period within which the action should be brought, and the demand when required to be made by the Rules, must be proved but need not be alleged in the complaint" (*italics supplied*).^[3]

Such unlawful withholding of possession by herein petitioners of the lot in question is adequately alleged in paragraphs 3, 4, and 6 of the complaint for unlawful detainer filed by herein private respondents, which read thus:

"3. That after acquiring said lot, the plaintiffs had the corners relocated by a surveyor and discovered that the above-named defendants were occupying portion of said lot where their respective houses were erected by tolerance of the previous owners.

"4. That on March 22, 1964, the plaintiffs gave notice to the said defendants to vacate the said lot within fifteen days but notwithstanding the expiration of said period, the defendants refused and failed (and) to leave the premises and remove their respective houses therefrom.

* * * * *

"6. That the defendants knew that said lot now belong to herein plaintiffs and same is covered by torrens title, and their unjustified and unreasonable refusal to vacate the premises forced the plaintiffs to file this case and engaged the service of counsel at an agreed fee of P500.00 as attorney's fees and costs." (pp. 18-19, rec.).

While possession by tolerance is lawful, such possession becomes illegal upon demand to vacate is made by the owner and the possessor by tolerance refuses to comply with such demand.^[4] "A person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against him * * *."^[5] A formal agreement or contract of lease between the vendor or vendee and herein petitioners, is not necessary before an unlawful detainer action can be filed against the latter.^[6]

Prior physical possession in the plaintiff is not an indispensable requirement in an unlawful detainer case brought by a vendee or other person against whom the possession of any land is unlawfully withheld after the expiration or termination of a right to hold possession and therefore the allegation of the same in the complaint, is not necessary.^[7] As heretofore stated, possession of a possessor by tolerance becomes unlawful the moment the owner demands that he vacate the land.

The herein private respondent caused the relocation survey of the lot in August, 1963. On March 22, 1964, they notified herein petitioners to vacate the same and to remove their houses therefrom. This fact of notice is admitted by herein petitioners in their answer to the complaint (Annex "H", p. 35, rec.). On May 4, 1964, they filed the complaint for illegal detainer. It is patent therefore that the complaint was filed within the one-year period from date of the demand to vacate.

Because physical or factual possession is the only issue in an illegal detainer case, mere claim of ownership does not divest the city or municipal court of its jurisdiction over such a case,^[8] even if proof of title is submitted at the trial.^[9]

The Angeles City Court found that, aside from their bare claim of ownership and continuous possession, herein petitioners "have not presented any tangible or concrete evidence of their right to hold and possess the property in suit" (Annex "I", pp. 37-38, rec.). And it is an accepted rule that a person who has a torrens title over the property, like herein private respondents, is entitled to the possession thereof.

III

Under Section 8 of Rule 70 of the Revised Rules of Court, if the judgment is against the defendant, "execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond, * * * to pay the rents, damages and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time * * *." [10] The requirement of a supersedeas bond is mandatory and cannot be dispensed with by the courts, [11] except when the delay or failure to file the same is due to fraud, accident or mistake or excusable negligence. [12] Herein petitioners did not allege such exception, much less prove the same.

The herein petitioners neither filed the supersedeas bond nor deposited the reasonable monthly rental decreed in the judgment of the Angeles City Court, which failure justifies the immediate execution of the judgment. [13] The duty of the court under such a situation becomes mandatory and ministerial [14] as well as imperative. [15]

WHEREFORE, petition is hereby dismissed and the preliminary injunction heretofore issued is hereby lifted and set aside, with costs against herein petitioners.

SO ORDERED.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] See case of De la Cruz vs. Bocar, 99 Phil. 494-495.

[2] Valderrama, etc. vs. Sarmiento Co., Inc., May 30, 1962, 5 SCRA 291; Co Tiamco vs. Diaz, Jan. 22, 1946, 75 Phil. 685.

[3] Co Tiamco vs. Diaz, supra; Laviada vs. Tuason, May 30, 1949, 83 Phil. 842-843.

[4] Prieto vs. Reyes, June 23, 1965, 14 SCRA 432; Yu vs. de Lara, Nov. 30, 1962, 6 SCRA 786, 788; Amis vs. Aragon, L-4684, April 28, 1957.

[5] Yu vs. de Lara, supra.

[6] De la Cruz vs. Bocar, et. al., supra, p. 496.

[7] See the cases of de la Cruz vs. Bocar, June 30, 1956, 54 OG 31, 99 Phil. 496; Dy Sun vs. Brillantes, May 27, 1953, 93 Phil. 176-178; Cruz vs. Lansang, Oct. 4, 1950, 48 OG 551, 87 Phil. 443, 445, 446; Aguilar vs. Cabrera, 74 Phil. 664.

[8] Clemente vs. Court, L-18686, Jan. 24, 1967, 19 SCRA 74; Toralba, et. al. vs. Rosales, et. al., L-21972, April 29, 1966; Bakit vs. Asperin, L-15700, April 26, 1961; Po, et. al. vs. Moscoso, et. al., 49 O.G. 2785; Subano vs. Vallecer, L-11867, March 24, 1959.

[9] Centeno vs. Gallardo, et. al., 93 Phil. 63; Clemente vs. Court, supra; Toralba, et. al. vs. Rosales, et al., supra; Bakit vs. Asperin, supra; Po, et. al., vs. Moscoso, et. al.; Subano vs. Vallecer, supra; Vol. 3 Moran, Comments on

Rules of Court, 1970 Ed., pp. 305-306.

[10] Villaroman vs. Abaya, L-4833, March 21, 1952, 91 Phil. 221; Romero vs. Pecson, 83 Phil. 368; Yu vs. Barrios, 79 Phil. 597; Arcilla vs. del Rosario, 74 Phil. 445; Pascua vs. Nable, 71 Phil. 186; Sumintac vs. Court, 71 Phil. 445.

[11] De la Cruz vs. Burgos, July 30, 1969, 28 SCRA 977, 981; Acibo vs. Macadaeg, June 30, 1964, 11 SCRA 449-450; Sison vs. Bayona, L-13446, Sept. 30, 1960, 109 Phil. 561.

[12] Acibo vs. Macadaeg, *supra*, citing Sison vs. Bayona, *supra*; Vol. 3 Moran, 1970 Ed., Comments on Rules of Court, 329.

[13] Pangilinan vs. Pena, May 28, 1951, 89 Phil. 122; Cora vs. Rodas, 79 Phil. 595; Guillena vs. Borja, 53 Phil. 379; Tombo vs. Court of First Instance of Pangasinan, 46 Phil. 851; Igama vs. Soria, 42 Phil. 11.

[14] Borden & Borden vs. Hontanosas, L-30335, Nov. 29, 1971, citing the cases of Arcilla vs. del Rosario, *supra*; Cunanan vs. Rodas, 78 Phil. 800; Laurel vs. Abalos, 30 SCRA 281; Galewsky vs. de la Rama, 79 Phil. 783; Ang Ching Gi vs. de Leon, 79 Phil. 580; Lee Tian Po & Co. vs. Rodas, 81 Phil. 395; Pangilinan vs. Pena, *supra*; Perez vs. Fernandez, 53 O.G. 109, May 23, 1956, 99 Phil. 183.

[15] Acibo vs. Macadaeg, *supra*; Acieto vs. Laperal, April 12, 1960, 107 Phil. 1088; Estacio vda. de Padayag vs. Camacho, Aug. 24, 1954, 95 Phil. 956; Pangilinan vs. Pena, *supra*; Menes vs. Dinglasan, 81 Phil. 470; Basilio vs. Natividad, 80 Phil. 52.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.