

**GUENEVER V. RIGOR AND ZENIAFLOR V. CABALONA, PETITIONERS,
VS. SPOUSES TEDDY & SALLY LOREN AND SPOUSES RUDY
& REGINA NAVARRA, RESPONDENTS,**

Ponente: INTING, J.

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INTING, J.:

This is a Petition for Review[1] filed under Rule 42 of the Rules of Court assailing the Decision[2] dated June 29, 2011 of the Regional Trial Court, Branch 18, Cagayan de Oro City in Civil Case No. 2010-372 for "Unlawful Detainer, Collection of Unpaid Rental and Damages", which affirmed the Judgment[3] dated October 21, 2010 of the Municipal Trial Court in Cities, Branch 2, Cagayan de Oro City.

The facts of the case are as follows:

The property subject of this controversy is a parcel of land covered by Tax Declaration No. F-071425[4], denominated as Lot 4349-C-4, in the name of Eligio Valdehueza (Eligio), married to Priscilla Baang Valdehueza (Priscilla), located in Patag, Cagayan de Oro City.

On March 1, 1980, a Contract of Rentals[5] was executed by Eligio as lessor, and spouses Rudy and Regina Navarra as lessees over a portion of Lot 4349-C-4 wherein the latter constructed their house. The lease was for a period of one (1) year which commenced on March 1, 1980 with a monthly rental of Twenty Pesos (P20.00) and renewable upon the expiration of the one (1) year period. When Eligio died, the subject lot was inherited by Priscilla and their children.

On October 20, 2002, Priscilla entered into an agreement with spouses Teddy and Sally Loren denominated as Kasulatan sa Kasabutan[6], whereby the latter constructed their house on Lot 4349-C-4. In the agreement, spouses Loren acknowledged that the owner of the land covered by Tax Declaration No. F-071425 where their house was constructed is Eligio. They also promised to vacate the lot once they can have their own lot where they can transfer their house.

In the meantime, the Contract of Rentals was renewed by the spouses Navarra after it expired. On the other hand, the spouses Loren continued to occupy the portion they previously occupied. When Priscilla died, her children, including herein petitioners, inherited and administered the subject lot.

In June 2007, petitioners made a demand from spouses Navarra to vacate the subject lot for their failure to pay the monthly rental. They also made a similar demand to spouses Loren to vacate the subject lot as they will use it. Respondents refused to vacate, hence, petitioners brought the matter to the Lupong Tagapamayapa. As no settlement was reached, a certificate to file action was then issued.

On September 6, 2007, petitioners through counsel, sent a demand letter to respondents but the latter again refused to vacate the subject lot.

Hence, on May 28, 2008, petitioners filed a complaint for unlawful detainer, collection of unpaid rentals, and

damages against respondents before the Municipal Trial Court in Cities (MTCC). As for respondents, they contended that the disputed lot is owned by Warlina Cabanducos, daughter of a certain Eulalia de Mira, as a consequence of the decision of the trial court in Civil Case No. 3371. They also contended that Tax Declaration No. F-071425 in the name of Eligio Valdehueza (covering Lot 4349-C-4 with an area of 1,374 sq. m.) no longer applies as the ownership of the co-owners of Lot 4349-C has been changed and defined; and that the area awarded to Eligio is 433 square meters only designated as Lot 22. Moreover, they argued that Lot 22 is very far from the area where their houses are constructed.

On October 21, 2010, the MTCC rendered a Judgment dismissing the case.

The MTCC ratiocinated, viz:

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Upon perusal of the records of the case, the possession of the plaintiffs of the litigated land has not been clearly established considering that the decision rendered by the Regional Trial Court of Misamis Oriental, Branch 17 in the Civil Case No. 3371 entitled "Eulalia de Mira, et. al. vs. Gregoria Bagting, et. al. For Partition and Damages" was not properly executed which segregated the shares of the co-owners of the property and a portion of which is the litigated property. There is a question as to the exact location that the plaintiffs are claiming and the property actually possessed by the defendants.

It is not safe to conclude then that defendants are occupants by mere tolerance of plaintiffs as alleged in the complaint because the identity of the portion of the litigated claimed by the plaintiffs must be properly identified first based on the Writ of Execution issued by the RTC 17 in favor of the Eulalia de Mira, et. al. In the alternative, the plaintiffs must have attached to their complaint the report of the Sheriff of RTC 17 that the claim of ownership by the plaintiffs of the portion litigated property has already been properly identified and defined upon the enforcement of the judgment rendered by RTC Branch 17. A summary action for unlawful detainer or ejectment is not the proper remedy in this case.

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Aggrieved, herein petitioners interposed an appeal before the RTC. On June 29, 2011, the court a quo rendered a Decision affirming the MTCC. The fallo reads:

WHEREFORE, premises considered, the instant Appeal is denied. The October 21, 2010 Judgment of the Municipal Trial Court in Cities, Branch 2, Cagayan de Oro City, in Civil Case No. C8-May-284, is hereby affirmed in toto.

SO ORDERED.

Hence, this petition.

Petitioners now come before Us raising the following assignment of errors[7]:

I.THE PIVOTAL ISSUE IN THIS CASE IS THAT THE HONORABLE RTC-18 GRAVELY ABUSED ITS DISCRETION IN RULING THAT CASE NO. 3371 OR THE DECISION THEREIN IS FINAL AND RELEVANT, CONTRARY TO JURISPRUDENCE, FACTS AND ADMISSIONS IN THIS CASE.

II.IT ALSO SERIOUSLY ERRED IN RULING THAT PETITIONERS FAILED TO IDENTIFY THE DISPUTED LOTS AND THAT THEY ARE NOT ENTITLED TO POSSESSION OF SAID LOTS.

III.RTC-18 AGAIN SERIOUSLY ERRED WHEN IT RULED THAT RESPONDENTS ARE NOT BOUND BY THE LEASE CONTRACT AND KASULATAN BASED ON THEIR NEGATIVE AND SELF SERVING ALLEGATIONS, AND IN TOTALLY DISREGARDING RESPONDENT'S ADMISSIONS IN

PLEADINGS AND EXHIBITS ON RECORDS THAT THE LITIGATED BUILDINGS ARE IN PETITIONER'S LOTS.

IV.FURTHER, IT GRAVELY ERRED IN RELYING ON RESPONDENTS' EXHS. "8", "9" AND SUBMARKINGS AS THEY ARE NOT ONLY IRRELEVANT, BUT INADMISSIBLE FOR BEING UNATTESTED COPIES.

Our Ruling

The petition is devoid of merit.

Petitioners contend that respondents spouses Navarra have in effect admitted that the former are the rightful owners of the lot as evidenced by the receipts representing monthly rentals paid to them. Moreover, the identities of the litigated lots are firmly established by the lease contract and Kasulatan which respondents cannot repudiate by their bare self-serving and negative declaration.

We do not agree.

Ejectment cases—forcible entry and unlawful detainer—are summary proceedings designed to provide expeditious means to protect actual possession or the right to possession of the property involved.[8] The only question that the courts resolve in ejectment proceedings is: who is entitled to the physical possession of the premises, that is, to the possession de facto and not to the possession de jure. It does not even matter if a party's title to the property is questionable. For this reason, an ejectment case will not necessarily be decided in favor of one who has presented proof of ownership of the subject property. [9] 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.[10] The adjudication is, however, merely provisional and would not bar or prejudice an action between the same parties involving title to the property.[11]

In the case at bar, petitioners anchor their claim on the disputed land- Lot 4349-C-4 , on Tax Declaration No. F-071425 issued under the name of their father Eligio Valdehueza and covering 1,374 square meters. On the other, respondents anchor their right to possess over the subject land through the lease contract and Kasulatan executed between them and Eligio who claimed to be the owner of Lot 4349-C-4.

It was however found out that as early as July 10, 1985, a decision was already entered by the then Intermediate Appellate Court (IAC) which decreed that Eligio, along with other co-owners, owned Lot 4349-C-4. Eligio was adjudged owner of only 433.7 sq. meters of the entire lot. The decision became final and executory and an entry of judgment was also entered.[12]

It is therefore clear that petitioners' asseveration that their father Eligio owned the land occupied by private respondents is unfounded. As held by the RTC and MTC, the exact land claimed by petitioners is not properly identified. To recall, the land declared by Eligio under his name in the tax declaration was Lot 4349-C-4 which consisted of 1,374 sq. meters. The contract of lease between Eligio and spouses Navarra was for a "portion" of the Lot 4349-C-4 while the Kasulatan executed between Priscilla refers to the entire Lot 4349-C-4 covered by Tax Declaration No. F-071425. However, the land adjudicated to Eligio as early as 1985 only consisted of 433.7 sq. meters or Lot 22.

Also worth noting is the fact that no title was presented by petitioners to support their claim of ownership over Lot 4349-C-4. They merely relied on the tax declaration issued in their father's name. Well-settled is the rule that a tax declaration does not prove ownership. It is merely an indicium of a claim of ownership.[13] Nevertheless, when coupled with proof of actual possession of the property, they may become the basis of a claim for ownership.[14] In the instant case, however, other than executing the contracts as alleging ownership of the subject lot, no other

proof was presented by petitioners to show that their father Eligio exercised possession over the subject lot. With these, petitioners' right of possession over Lot 4349-C-4 was not sufficiently proven and supported.

Neither can petitioners rely on the lease contract and Kasulatan by arguing that respondents, on these documents, have admitted Eligio's ownership over the subject land. It is clear that at the time petitioners demanded from respondents to vacate the subject lot, the latter are no longer owners of the entire lot they are claiming by virtue of the IAC Decision in Case No. 3371. Again, the exact land claimed by petitioners is not properly identified.

Petitioners also argue that there was yet no final order approving the project of partition in Case No. 3371. Hence, the judgment issued in Case No. 3371 is not yet final because it leaves something to be done in the trial court for the complete disposition of the case.

We do not agree.

It is undisputed that the decision in Case No. 3371 by the IAC already became final and executory as it was already entered in the Book of Judgment on September 26, 1985. Once a judgment becomes final and executory, all the issues between the parties are deemed resolved and laid to rest.[15] As such, that part of the decision adjudging Eligio to be the owner of only the 433.7 sq. meters portion of Lot 4349-C-4 had become final and executory. Its finality is thereby not affected whether or not the partition made by the commissioner was approved for it has been held that in any decision ordering partition, the execution of that part of the judgment that does not necessitate any further proceedings may be enforced.[16] As such, the fact is clear that indeed the land owned by Eligio consists of only 433.7 sq. meters and not 1,374 sq. meters as stated in the tax declaration relied by petitioners. Hence, the court a quo was correct when it held that it cannot be determined with certainty whether that place where the houses of respondents is erected is the one owned by Eligio.

Finally, petitioners argue that the court a quo erred in relying on respondents' exhs. "8", "9" and submarkings as they are not only irrelevant, but inadmissible for being unattested copies.

The contention must fail. Granting arguendo that the allegation is true, it is only at this late stage that petitioners are raising this point. It was not raised before the MTC or the RTC. Well-settled is the rule that issues not raised timely in the proceedings before the trial court cannot be considered on review or appeal as to do so would be to trample on the basic rules of fair play, justice, and due process.[17] Questions raised on appeal must be within the issues framed by the parties; consequently, issues not raised before the trial court cannot be raised for the first time on appeal.[18]

The above ruling notwithstanding, it may also be emphasized that Civil Case No. 2010-372 is an action for unlawful detainer, which is an accion interdictal. Hence, the issue is limited to the right to physical possession or possession de facto only, independent of any claim of ownership that either party may set forth in his or her pleadings, albeit the court has the competence to delve into and resolve the issue of ownership but only to address the issue of priority of possession.[19] A judgment in an unlawful detainer case disposes of no other issue than possession and establishes only who has the right of possession, but by no means constitutes a bar to an action for determination of who has the right or title of ownership.[20]

WHEREFORE, the petition is hereby DENIED. The Decision dated June 29, 2011 of the Regional Trial Court, Branch 18, Cagayan de Oro City in Civil Case No. 2010-372 is AFFIRMED.

SO ORDERED.

Camello, (Chairperson), and Perez, JJ., concur.

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- [1] Rollo, pp. 4-26
 - [2] Rollo, pp. 27-32, penned by Hon. Judge Dennis Z. Alcantar
 - [3] Rollo, pp. 33-37
 - [4] Rollo, p. 61
 - [5] Rollo, p. 65
 - [6] Rollo, p. 62
 - [7] Rollo, p. 18
 - [8] Corpuz v. Agustin, G.R. No. 183822, January 18, 2012
 - [9] Supra
 - [10] Barrientos v. Rapal, G.R. No. 169594, July 20, 2011
 - [11] Supra.
 - [12] Comment, Rollo, pp. 84-85
 - [13] Dela Cruz v. Miguel, G.R. No. 144103, August 31, 2005
 - [14] Bienvenido v. Gabriel, G.R. No. 175763, April 11, 2012
 - [15] Anama v. Court of Appeals, G.R. No. 187021, January 25, 2012
 - [16] Gulang v. Court of appeals, G.R. No. 116155, December 17, 1998
 - [17] Manguib v. Arcangel, G.R. No. 152262, February 15, 2012
 - [18] PNB v. Perez, G.R. No. 187640, June 15, 2011
 - [19] Cano v. Usi, G.R. No. 192486, November 21, 2012
 - [20] Custodio v. Corrado, G.R. No. 146082, July 30, 2004

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