

HEIRS OF AGUSTIN ABAGA, REPRESENTED BY BENEDICTO ABAGA, RENATO ABAGA, ANNABELLE ABAGA-CALIDQUID, ENRICO ABAGA-ANOBA AND FERNAN ABAGA, PETITIONERS, VS. MARLON SHUI, WENCHAN YU, J...

Ponente: REYES, JR., J.C., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ef889f3acf65/>

REYES, JR., J.C., J.:

Before Us is a petition for review filed under Rule 42 of the Rules of Court assailing the Decision dated October 17, 2011 of the Regional Trial Court (RTC) Branch 70, Iba, Zambales in Civil Case No. RTC-3166-I which affirmed the Decision dated April 26, 2011 of the Municipal Circuit Trial Court (MCTC) of Masinloc and Palauig, Zambales, in Civil Case No. 161.

The antecedents are as follows:

The Heirs of Agustin Abaga, represented by Benedicto Abaga, Renato Abaga, Annabelle Abaga-Calidquid, Enrico Abaga-Anoba and Fernan Abaga (hereafter referred to as “petitioners”) filed before the MCTC on October 14, 2009 a complaint for forcible entry with damages against Marlon Shui, Wenchuan Yu, Joe Vargas, and all persons claiming rights under them (hereafter referred to as “respondents”).

Petitioners averred that their predecessor-in-interest Agustin Abaga, during his lifetime, had been in open, continuous and exclusive possession of a fish pond, consisting of 19.1914 hectares situated in Locloc, Palauig, Zambales. Agustin and his wife Maria were claimants of the lot as evidenced by Plan Psu-62514 which was previously applied for Original Registration of Title in Land Reg. Case No. 158 GCRO Record No. 34871. In October 2008, however, the respondents, by means of intimidation, stealth, strategy and threat, forcibly entered the property, built structures thereon and developed the fish pond to the damage and prejudice of Agustin's heirs. (Rollo, pp. 29, 32).

Respondents for their part alleged that the property was under the continuous and uninterrupted possession of the Heirs of Teofilo Cayco for more than 30 years. They (respondents) were employed by the Caycos as fishpond manager/technicians, evidenced by their employment contracts. According to them, the petitioners had no actual prior physical possession over the subject fishpond. (Rollo, pp. 30, 33, 35).

The MCTC, on April 26, 2011, rendered its Decision dismissing the complaint “for utter lack of merit”. (Rollo, p. 37).

The MCTC held that the complaint merely alleged that Agustin during his lifetime was in open, continuous, and exclusive possession of the property and had previously applied the subject lot for original registration of title to land, without however showing evidence of Agustin's prior physical possession. (Rollo, p. 36).

The petitioners appealed the case to the RTC which on October 17, 2011 disposed:

“ IN VIEW THEREOF, judgment is rendered AFFIRMING the Decision of the Municipal Circuit Trial Court

of Masinloc-Palauig, Zambales.” (Rollo, p. 31).

The RTC ratiocinated that:

“...mere allegation or claim is not proof. Plaintiffs still need to prove, by preponderance of evidence, the allegations in their complaint before they could be entitled to the ejectment of the defendants from the property.

The trial court was correct in pointing out that it is not sufficient to just allege prior physical possession over the disputed property but the same must be supported by clear and convincing evidence. The plaintiffs merely alleged that their predecessors-in-interest, Agustin and Maria Abaga, were the survey claimant without presenting proof of prior physical possession.

Because plaintiffs failed to substantiate with preponderance of evidence their prior physical possession of the land, they could not consequently claim, and the court could not make a finding that they were subsequently ousted from said property or dispossessed of the same by the defendants. Absence alone of prior physical possession by the plaintiff in a forcible entry case already warrants the dismissal of the complaint.

Moreover, there is the allegation of the answering defendants that they were both there in the disputed fish pond because they were employed by the owners, the heirs of Teofilo Cayco, as fishpond technicians/managers and submitted to the court their respective employment contract. Defendants, thus, stated that they have no interest whatsoever in the land they claimed to be owned and possessed by the Caycos. Thus, they were not the proper parties to be sued and plaintiffs had no cause of action against them.

Considering that their claim was well-supported by evidence, they were not the proper party to be sued. Thus, plaintiffs have no cause of action against them.” (Citations omitted) (Rollo, pp. 30-31).

Petitioners' Motion for Reconsideration was denied by the RTC in its Order dated January 9, 2012. (Rollo, p. 38).

Hence, the present petition where it is claimed that:

“THE APPELLATE COURT (RTC) ERRED AMOUNTING TO REVERSAL ERROR WHEN IT AFFIRMED THE DECISION OF THE MUNICIPAL CIRCUIT TRIAL COURT OF MASINLOC-PALAUIG, ZAMBALES DISMISSING PETITIONERS COMPLAINT FOR FORCIBLE ENTRY WITH DAMAGES AGAINST THE RESPONDENTS

THE COURT A QUO (MCTC) AND THE APPELLATE COURT (RTC) ERRED IN NOT FINDING THAT PETITIONERS ARE IN PRIOR POSSESSION OF THE PREMISES SUBJECT OF THE COMPLAINT FOR FORCIBLE ENTRY

THE COURT A QUO (MCTC) ERRED AMOUNTING TO GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT RESPONDENTS FILING OF THEIR ANSWER WILL BE CONSTRUED AS RESPONDENTS VOLUNTARY APPEARANCE IN COURT DURING THE PRELIMINARY CONFERENCE OF THE CASE BEFORE THE COURT A QUO (MCTC)

THE COURT A QUO ERRED AMOUNTING TO GRAVE ABUSE OF DISCRETION WHEN IT ENTERTAINED RESPONDENTS PRE-TRIAL BRIEF ALTHOUGH IT WAS FILED LATE AND WITHOUT MOTION TO ADMIT PRE-TRIAL BRIEF” (SIC) (Rollo, p. 19).

Petitioners contend that the courts a quo erred in ruling that they never had prior possession of the property. The Certification dated October 23, 2000, issued by Glenn E. Eclevia, Lands Management Service, Office of the CENR, Masinloc, Zambales stated that based on available records on file, it appears that the heirs of Agustin and Maria Abaga are the Survey Claimants in Lot Cad No. 1223-A Cad-03-001858-D consisting of 19.1914 hectares not covered by any public land application. Also, while their “feet are not on every square meter of the property in

question”, jurisprudence holds that such is not necessary to be deemed “in possession” thereof. (Rollo, p. 20).

Petitioners further assert that the MCTC acted with grave abuse of discretion when it entertained respondents' Pre-trial Brief even though it was filed late; when it construed respondents' Answer as voluntary appearance in court during the preliminary conference, and; when it denied their (petitioners) motion to present evidence ex-parte. (Rollo, p. 21).

Petitioners also maintain that respondents are the proper parties in the suit because they were the actual intruders in the premises who possessed the land and benefited therefrom. (Rollo, pp. 75-76).

The Court finds NO MERIT in the petition.

A forcible entry action, a quieting process that is summary in nature, is designed to recover physical possession through speedy proceedings that are restrictive in nature, scope and time limits. (Copuyoc v. De Sola, 504 SCRA 176, 184-185 [2006]).

Following Section 1, Rule 70 of the Rules of Court[1] a plaintiff, must allege and prove: (1) prior physical possession of the property; and (2) unlawful deprivation of it by the defendant through force, intimidation, strategy, threat or stealth, in order that a forcible entry suit may prosper. (Nenita Quality Foods Corp. v. Galabo, 689 SCRA 569, 583 [2013]).

Now possession in forcible entry suits refers only to possession de facto or actual or material possession, and not possession flowing out of ownership or possession de jure in the sense contemplated in civil law. Possession in these cases refers to nothing more than prior physical possession. Title is not an issue and the absence thereof is not a ground for courts to withhold relief from the parties in ejectment cases. (Nenita Quality Foods Corp. v. Galabo, supra, p. 581).

In forcible entry cases, a party who can prove prior possession can recover such possession even against the owner himself. If one has in his favor prior possession in time, whatever may be the character of his possession, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. (Nenita Quality Foods Corp. v. Galabo, supra, p. 581).

In this case, petitioners assert that, through their predecessor-in-interest, they have prior physical possession of the subject property and that respondents, through force, intimidation, strategy, threat or stealth, unlawfully deprived them thereof.

In claiming prior possession of the property, petitioners invoke the Certification issued by the Acting Land Management Officer of the Lands Management Service of the CENRO which stated that the subject property is part of plan Psu-62514 situated in Locloc, Palauig, Zambales which was previously applied for Original Registration of Title in Land Reg. Case No. 158, GCRO Record No. 34871 by Agustin and Maria Abaga. (Rollo, pp. 74-75).

We find petitioner's claim to be wanting.

In forcible entry cases, as in all other civil cases, the burden of proof is on the plaintiff to establish his case by a preponderance of evidence. (Nenita Quality Foods Corp. v. Galabo, supra, p. 583). If a plaintiff claims a right granted or created by law, the same must be proven by competent evidence. (Copuyoc v. De Sola, 504 SCRA 176, 186 [2006]).

The certification presented by petitioners however does not prove prior physical possession. Documents that merely constitute proofs of a claim of title over the declared property are insufficient to support a complaint for forcible entry. The plaintiff must present evidence that he was in actual physical possession of the land he claims.

(See *Villondo v. Quijano*, 686 SCRA 694, 703-704 [2012]).

It must be stressed that one who alleges a fact has the burden of proving it. (*Quizon v. Juan*, 554 SCRA 601, 611 [2008]). Parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence and not on the weakness of the defendant's. (*Lee v. Dela Paz*, 604 SCRA 522, 536).

While petitioners assail the employment contract presented by the respondents and attributed grave abuse of discretion on the MCTC for allowing respondents' pleadings that were belatedly filed, We find such matters to be inconsequential in view of petitioners' own failure to sufficiently prove their claim.

It has been held numerous times that absence of prior physical possession by the plaintiff in a forcible entry case warrants the dismissal of the complaint. It is an essential element of the case, thus the plaintiffs must prove that they were in prior physical possession of the premises long before they were deprived thereof by the defendant. (*Quizon v. Juan*, supra, pp. 611-612).

Petitioners themselves admit that their "feet are not on every square meter of the property in question," arguing only that possession of every square meter of the property is not necessary for them to be deemed in possession thereof. (*Rollo*, pp. 21, 75).

While it is true that it is not necessary to have actual or physical occupation of every square inch of the property at all times, still, the plaintiff must prove possession which can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right. This possession can be acquired by juridical acts, such as donation, succession, execution and registration of public instruments and the inscription of possessory information titles. (*Quizon v. Juan*, supra, p. 612).

Petitioners however failed to present competent evidence to prove such prior possession.

With the failure of petitioners to prove prior physical possession of the subject property by a preponderance of evidence, the Court finds that the MCTC did not err in dismissing their complaint, and the RTC in affirming such dismissal.

WHEREFORE, the petition is DENIED for lack of merit. The Decision dated October 17, 2011 of the Regional Trial Court, Branch 70, Iba, Zambales in Civil Case No. RTC-3166-I is hereby AFFIRMED.

SO ORDERED.

Lopez, M.V., and Inting, S.B., JJ., concur.

[1] SECTION 1. Who may institute proceedings, and when. — Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person may at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

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.