

SPOUSES NAPOLEON L. GAZA AND EVELYN GAZA, SPOUSES RENATO PETIL AND MELY PETIL, BRGY. SEC. VICTORIO A. CONDUCTO AND BRGY. TANOD ARTURO ALAON, PETITIONERS, VS. RAMON J. LIM AND AG...

G.R. No. 126863. January 16, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

The present petition for review on certiorari[1] seeks to set aside the Decision dated April 29, 1995 and the Resolution dated October 10, 1996 of the Court of Appeals[2] in CA-G.R. SP No. 36997 reversing the Decision of the Regional Trial Court, Branch 63, Calauag, Quezon in Civil Case No. C-1031 for forcible entry.

The factual milieu of this case is as follows:

On February 20, 1961, Napoleon Gaza purchased a parcel of land with an area of 5,270 square meters located in Barangay Sta. Maria, Calauag, Quezon, from Angeles Vda. de Urrutia. The Register of Deeds of Lucena City then cancelled the latter's title and issued Transfer Certificate of Title (TCT) No. T-47263 in the name of Napoleon Gaza.

Thereafter, Napoleon Gaza and his wife Evelyn engaged in the lumber and copra business. They constructed a huge lumber shed on the property and installed engines, machinery and tools for a lumber mill. They also utilized a portion of the property as storage for copra. In 1975, they ceased engaging in business. They padlocked the gates of the property, leaving it to the care of Numeriano Ernesto. When he died in 1991, spouses Gaza designated Renato Petil as the new caretaker of the land.

On the other hand, Ramon and Agnes Lim, both half-siblings of Napoleon Gaza, claimed that they have used the same lot for their lumber and copra business since 1975, as shown by Lumber Certificate of Registration No. 2490, PCA Copra Business Registration No. 6265/76 and Mayor's Permit dated December 31, 1976. Sometime in November 1993, they designated Emilio Herrera as caretaker of the property.

On November 28, 1993, the padlock of the main gate was destroyed. According to Napoleon Gaza, the siblings Ramon and Agnes Lim and Emilio Herrera, entered the property by breaking the lock of the main gate. Thereafter, they occupied a room on the second floor of the warehouse without the consent of Renato Petil who was then outside the premises.

For their part, Ramon and Agnes Lim maintain that on November 28, 1993, spouses Gaza detained Emilio Herrera and his daughter inside the compound and destroyed the padlocks of the gates. Thereafter, said spouses forcibly opened Agnes Lim's quarters at the second floor of the warehouse and occupied it.

On December 13, 1993, Ramon and Agnes Lim filed with the Municipal Trial Court (MTC) of Calauag, Quezon an action for forcible entry against spouses Napoleon and Evelyn Gaza, docketed as Special Civil Action No. 845.

On December 21, 1993, spouses Gaza filed with the same court their answer with compulsory counterclaim.

On June 1, 1994, the MTC dismissed the complaint and counterclaim.

On appeal, the Regional Trial Court (RTC), Branch 63, Calauag, Quezon, affirmed the MTC Decision with modification, thus:

"WHEREFORE, in the light of the foregoing considerations the judgment of the lower court is hereby AFFIRMED and the appeal is DENIED with the modification that the plaintiffs are ordered to pay the amount of P5,000.00 as moral damages and P5,000.00 by way of exemplary damages to the defendants spouses Napoleon Gaza and Evelyn Gaza.

"SO ORDERED."[3]

On April 29, 1995, Ramon and Agnes Lim filed with the Court of Appeals a petition for review, docketed therein as CA-G. R. SP No. 36997. In its Decision, the Court of Appeals[4] reversed and set aside the Decision of the RTC, thus:

"WHEREFORE, premises considered, the petition is hereby GIVEN DUE COURSE. The decision of the Regional Trial Court of Calauag, Quezon, Branch 63, affirming the decision of the Municipal Trial Court, is hereby REVERSED and SET ASIDE and a new one is rendered ordering the private respondents and all persons claiming rights under them to vacate the premises in question and surrender its possession to the petitioners.

"SO ORDERED."

Spouses Gaza filed a motion for reconsideration but was denied. Hence, they filed with this Court the present petition for review on certiorari ascribing to the Court of Appeals the following errors:

"I.

THE COURT OF APPEALS ERRED IN FAILING TO RULE THAT THERE WAS NO IMPLIED ADMISSION ON THE PART OF PETITIONERS THAT PRIVATE RESPONDENTS HAD BEEN IN PRIOR AND ACTUAL PHYSICAL POSSESSION OF SUBJECT PROPERTY SINCE 1975.

"II.

THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN RESOLVING THE INSTANT CASE ON MERE TECHNICALITIES AND IN APPLYING THE RULES OF PROCEDURE IN A VERY RIGID MANNER, THEREBY DENYING PETITIONERS SUBSTANTIAL JUSTICE.

"III.

THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN IGNORING THE VOLUMINOUS EVIDENCE ADDUCED BY THE PETITIONERS IN SUBSTANTIATING THEIR PRIORITY IN POSSESSION OF SUBJECT PROPERTY, SAID ERROR BECOMING EVEN MORE MANIFEST IN THE LIGHT OF THE GLARING PAUCITY OF EVIDENCE OF PRIVATE RESPONDENTS TO SUPPORT THEIR ALLEGED POSSESSION.

"IV.

THE COURT OF APPEALS ERRED IN FAILING TO TAKE INTO ACCOUNT THE FINAL AND EXECUTORY JUDGMENT OF CONVICTION OF RESPONDENT AGNES LIM FOR TRESPASSING INTO SUBJECT PROPERTY, CLEARLY EVIDENCING PETITIONERS' PRIOR AND ACTUAL MATERIAL POSSESSION AND PRIVATE RESPONDENTS' PREDISPOSITION FOR FALSEHOOD, THE TRUTH OF THE MATTER BEING OF SAID PROPERTY AND THAT IT IS PRIVATE RESPONDENTS WHO HAVE FORCIBLY ENTERED THE PROPERTY IN DISPUTE

"V.

THE COURT OF APPEALS ERRED IN RESOLVING THE ISSUE OF IMPLIED ADMISSION, NOT BEING ONE OF THE ISSUES DELIMITED IN THE PRE-TRIAL ORDER OF 17 FEBRUARY 1994."[5]

We resolve the issues jointly.

Section 11, Rule 8 of the 1997 Rules of Civil Procedure, as amended, provides that material averments in the complaint, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. Section 10 of the same Rule provides the manner in which specific denial must be made:

"Section 10. Specific Denial. – A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny only a part of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial."

Three (3) modes of specific denial are contemplated by the above provisions, namely: (1) by specifying each material allegation of the fact in the complaint, the truth of which the defendant does not admit, and whenever practicable, setting forth the substance of the matters which he will rely upon to support his denial; (2) by specifying so much of an averment in the complaint as is true and material and denying only the remainder; (3) by stating that the defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment in the complaint, which has the effect of a denial.[6]

The Court of Appeals held that spouses Gaza, petitioners, failed to deny specifically, in their answer, paragraphs 2, 3 and 5 of the complaint for forcible entry quoted as follows:

"x x x

"2. That plaintiffs are the actual and joint occupants and in prior continuous physical possession since 1975 up to Nov. 28, 1993 of a certain commercial compound described as follows:

"A certain parcel of land situated in Bo. Sta. Maria, Calauag, Quezon. Bounded on the N., & E., by Julian de Claro; on the W., by Luis Urrutia. Containing an area of 5,270 square meters, more or less. Declared under Ramon J. Lim's Tax Dec. No. 4576 with an Ass. Value of P26,100.00

"3. That plaintiffs have been using the premises mentioned for combined lumber and copra business. Copies of plaintiffs' Lumber Certificate of Registration No. 2490 and PCA Copra Business Registration No. 6265/76 are hereto attached as Annexes "A" and "B" respectively; the Mayor's unnumbered copra dealer's permit dated Dec. 31, 1976 hereto attached as Annex "C";

"x x x

"5. That defendants' invasion of plaintiffs' premises was accomplished by illegally detaining plaintiffs' caretaker Emilio Herrera and his daughter inside the compound, then proceeded to saw the chain that held

plaintiffs' padlock on the main gate of the compound and then busted or destroyed the padlock that closes the backyard gate or exit. Later, they forcibly opened the lock in the upstairs room of plaintiff Agnes J. Lim's quarters and defendants immediately filled it with other occupants now. Copy of the caretaker's (Emilio Herrera) statement describing in detail is hereto attached as Annex "D";

"x x x." [7]

The Court of Appeals then concluded that since petitioners did not deny specifically in their answer the above-quoted allegations in the complaint, they judicially admitted that Ramon and Agnes Lim, respondents, "were in prior physical possession of the subject property, and the action for forcible entry which they filed against private respondents (spouses Gaza) must be decided in their favor. The defense of private respondents that they are the registered owners of the subject property is unavailing."

We observe that the Court of Appeals failed to consider paragraph 2 of petitioners' answer quoted as follows:

"2. That defendants specifically deny the allegations in paragraph 2 and 3 of the complaint for want of knowledge or information sufficient to form a belief as to the truth thereof, the truth of the matter being those alleged in the special and affirmative defenses of the defendants;" [8]

Clearly, petitioners specifically denied the allegations contained in paragraphs 2 and 3 of the complaint that respondents have prior and continuous possession of the disputed property which they used for their lumber and copra business. Petitioners did not merely allege they have no knowledge or information sufficient to form a belief as to truth of those allegations in the complaint, but added the following:

"SPECIAL AND AFFIRMATIVE DEFENSES

"That defendants hereby reiterate, incorporate and restate the foregoing and further allege:

"5. That the complaint states no cause of action;

"From the allegations of plaintiffs, it appears that their possession of the subject property was not supported by any concrete title or right, nowhere in the complaint that they alleged either as an owner or lessee, hence, the alleged possession of plaintiffs is questionable from all aspects. Defendants Sps. Napoleon Gaza and Evelyn Gaza being the registered owner of the subject property has all the right to enjoy the same, to use it, as an owner and in support thereof, a copy of the transfer certificate of title No. T-47263 is hereto attached and marked as Annex "A- Gaza" and a copy of the Declaration of Real Property is likewise attached and marked as Annex "B- Gaza" to form an integral part hereof;

"6. That considering that the above-entitled case is an ejectment case, and considering further that the complaint did not state or there is no showing that the matter was referred to a Lupon for conciliation under the provisions of P.D. No. 1508, the Revised Rule on Summary Procedure of 1991, particularly Section 18 thereof provides that such a failure is jurisdictional, hence, subject to dismissal;

"7. That the Honorable Court has no jurisdiction over the subject of the action or suit;

"The complaint is for forcible entry and the plaintiffs were praying for indemnification in the sum of P350,000.00 for those copra, lumber, tools, and machinery listed in par. 4 of the complaint and P100,000.00 for unrealized income in the use of the establishment, considering the foregoing amounts not to be rentals, Section 1 A (1) and (2) of the Revised Rule on Summary Procedure prohibits recovery of the same, hence, the Honorable Court can not acquire jurisdiction over the same. Besides, the defendants Napoleon Gaza and Evelyn Gaza being the owners of those properties cited in par. 4 of the complaint except for those copra and two (2) live carabaos outside of the subject premises, plaintiffs have no rights whatsoever in claiming damages that it may suffer, as and by way of proof of ownership of said properties cited in paragraph 4 of the complaint

attached herewith are bunched of documents to form an integral part hereof;

"8. That plaintiffs' allegation that Emilio Herrera was illegally detained together with his daughter was not true and in support thereof, attached herewith is a copy of said Emilio Herrera's statement and marked as Annex "C-Gaza."

x x x x x x x x."[9]

The above-quoted paragraph 2 and Special and Affirmative Defenses contained in petitioners' answer glaringly show that petitioners did not admit impliedly that respondents have been in prior and actual physical possession of the property. Actually, petitioners are repudiating vehemently respondents' possession, stressing that they (petitioners) are the registered owners and lawful occupants thereof.

Respondents' reliance on Warner Barnes and Co., Ltd. vs. Reyes[10] in maintaining that petitioners made an implied admission in their answer is misplaced. In the cited case, the defendants' answer merely alleged that they were "without knowledge or information sufficient to form a belief as to the truth of the material averments of the remainder of the complaint" and "that they hereby reserve the right to present an amended answer with special defenses and counterclaim." [11] In the instant case, petitioners enumerated their special and affirmative defenses in their answer. They also specified therein each allegation in the complaint being denied by them. They particularly alleged they are the registered owners and lawful possessors of the land and denied having wrested possession of the premises from the respondents through force, intimidation, threat, strategy and stealth. They asserted that respondents' purported possession is "questionable from all aspects." They also averred that they own all the personal properties enumerated in respondents' complaint, except the two carabaos. Indeed, nowhere in the answer can we discern an implied admission of the allegations of the complaint, specifically the allegation that petitioners have priority of possession.

Thus, the Court of Appeals erred in declaring that herein petitioners impliedly admitted respondents' allegation that they have prior and continuous possession of the property.

We now resolve the basic substantial issue. In an action for forcible entry, the plaintiff must prove that he was in prior possession of the land or building and that he was deprived thereof by means of force, intimidation, threat, strategy or stealth.[12] It must be stressed, though, that he cannot succeed where it appears that, as between himself and the defendant, the latter had a possession antedating his own.[13] To ascertain this, it is proper to look at the situation as it existed before the first act of spoliation occurred.[14] Such determination in this case requires a review of factual evidence, generally proscribed in a petition like this.[15] Considering, however, the conflicting factual findings of the MTC and RTC on one hand, and the Court of Appeals on the other, this Court takes exception to the general rule in order to resolve the factual issues raised by the parties.

Petitioners' possession of the property has been sufficiently established by evidence. The title to the property (TCT No. T-47263) is in the name of petitioner Napoleon Gaza. On record is a deed of sale showing that he bought the land in 1961 from Angeles Vda. de Urrutia. Petitioner also presented receipts of payment of realty taxes.

A disinterested witness, Barangay Secretary Victorio Conducto of Sta. Maria, Calauag, Quezon, in his Affidavit attached to the instant petition,[16] stated that since 1968, spouses Gaza have been in possession of the property and that respondents never occupied the property even for business purposes. Upon the closure of their business, petitioners designated Numeriano Ernesto and Renato Petil as caretakers of the lot. Upon the other hand, respondents' allegation of prior possession of the premises is anchored on spurious documents. The Lumber Certificate of Registration of Business Name No. 78-2490, for one, does not specifically refer to the disputed property. It was issued to them at a different address. Tax Declaration No. 35-81-220 in the name of R. J. Lim is

not a certified true copy of the original.[17] Also, respondents' purported PCA Certificate of Registration No. 6265/76 as copra dealer[18] and the Mayor's Permit[19] are expired documents. Not even their supposed caretaker, Emilio Herrera, submitted an affidavit confirming that they are the lawful possessors of the property.

Furthermore, respondent Agnes Lim was later convicted by the MTC of Calauag, Quezon in Criminal Case No. 7405 for trespassing into the subject property.[20] The MTC Decision confirms the falsity of respondents' claim of prior possession. It bears emphasis that the MTC Decision was affirmed in toto by the RTC of Calauag, Quezon, Branch 63 in Criminal Case No. 2725-C.[21]

Where a dispute over possession arises between two persons, the person first having actual possession is the one who is entitled to maintain the action granted by law; otherwise, a mere usurper without any right whatever, might enter upon the property of another and, by allowing himself to be ordered off, could acquire the right to maintain the action of forcible entry and detainer, however momentary his intrusion might have been.[22]

In this case, evidence clearly shows that the petitioners are the true owners and, therefore, the lawful possessors of the land. Verily, respondents' allegation of actual possession and that petitioners deprived them of such possession by means of force, intimidation and threat are clearly untenable.

WHEREFORE, the petition is GRANTED and the assailed Decision of the Court of Appeals in CA-G. R. SP No. 36997 dated March 12, 1996 is REVERSED and SET ASIDE. The Decision of the RTC, Branch 63, Calauag, Quezon in Civil Case No. C-1031 affirming the MTC Decision dismissing respondents' complaint is REINSTATED, with modification in the sense that the award of moral and exemplary damages in favor of petitioners is deleted.

SO ORDERED.

Puno, (Chairman), Panganiban, Corona, and Carpio Morales, JJ., concur.

[1] Filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2] Penned by then Associate Justice Consuelo Ynares-Santiago, now Justice of this Court, and concurred in by then Associate Justice Arturo B. Buena, also of the Court of Appeals, now retired Justice of this Court, and Associate Justice Ruben T. Reyes.

[3] Penned by Judge Rodolfo V. Garduque, Rollo, at 237-245.

[4] Rollo, at 65-72.

[5] Id., at 23-24.

[6] Capital Motors Corporation vs. Yabut, 32 SCRA 1 (1970).

[7] Rollo, at 15-17.

[8] Answer with Compulsory Counterclaim, id., at 85.

[9] Id., at 85-86.

[10] 103 Phil. 662 (1958), cited in Capital Motors vs. Yabut, 32 SCRA 1, 4-5 (1970).

[11] Id., at 663.

[12] Benitez vs. Court of Appeals, 266 SCRA 242, 249 (1997).

[13] Masallo vs. Cesar, 39 Phil. 134, 137 (1918).

[14] Id.

[15] Siguan vs. Lim, 318 SCRA 725, 735 (1999).

[16] Annex “J,” Rollo, at 214-216.

[17] Rollo, at 226.

[18] Id., at. 82.

[19] Id., at 83.

[20] Annex “AA” of the petition, Rollo, at 292-295.

[21] Annex “BB” of the petition, id., at 296-301.

[22] Masallo vs. Cesar, 39 Phil. 134, 137 (1918).

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