

**ANGELA DELA ROSA AND CORAZON MEDINA, PETITIONERS,
PRESENT: VS. ORFELINA D. ROLDAN, LORNA SAN DIEGO,
FLORDELIZA D. CATA CUTAN, NORMA Y. LACUESTA, AND ARSENIO
DULAY, RESPONDENTS. D...**

G.R. NO. 133882. September 05, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a Petition for Review on Certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 45560 affirming, on a petition for review, the Decision of the Regional Trial Court (RTC) of Tarlac in Civil Case No. 8396, which in turn reversed on appeal the decision of the Municipal Trial Court (MTC) of Tarlac, Tarlac in Civil Case No. 6089 for unlawful detainer.

The Antecedents

The spouses Adriano Rivera and Aurora Mercado were the owners of two (2) parcels of land located in Tarlac, Tarlac, both covered by respective titles; the 261-square-meter lot was covered by Transfer Certificate of Title (TCT) No. 7225, while the 772 sq. m. was covered by TCT No. 7226.

Sometime in 1957, the spouses Rivera executed a deed of sale[2] over the properties in favor of the spouses Arsenio Dulay and Asuncion dela Rosa. Gideon dela Rosa, one of Asuncion's brothers, was one of the instrumental witnesses in the deed. To pay for the property, the spouses Dulay, who were members of the Government Service Insurance System (GSIS), secured a P9,500.00 loan and executed a real estate mortgage over the two lots as security therefor. On September 16, 1957, the Register of Deeds issued TCT Nos. 29040 and 29041 in the names of the spouses Dulay.

The spouses Dulay forthwith took possession of the lots, except a 500-square-meter portion which was then occupied by Gideon dela Rosa and his wife Angela and the portion where the house of Corazon Medina stood. The spouses Dulay declared the property for taxation purposes in their names and paid the realty taxes therefor.

Sometime in 1982, the spouses Dulay made demands on Gideon, Angela and Corazon to vacate the premises, as their three daughters would be constructing their respective houses thereon. Gideon, Angela and Corazon refused to do so, prompting the spouses to file a complaint for recovery of possession (accion publiciana) against them with the then Court of First Instance (CFI) of Tarlac. The spouses Dulay alleged, inter alia, that they bought the lots from the spouses Rivera in 1957; defendants occupied a 370-square-meter portion on the western side, and were claiming ownership over one-half of the property, as shown by their letter to plaintiffs appended to their complaint; and they needed the property so that their daughters, who already had their respective families, could build houses thereon. The spouses Dulay prayed that defendants be evicted from the property and be required to pay reasonable compensation for their use of the premises.[3] The case was docketed as Civil Case No. 6261.

In their answer to the complaint, defendants alleged the following by way of special and affirmative defenses:

Gideon and his sister Asuncion contributed equally to the purchase price of the property; plaintiffs secured a GSIS loan of P9,500.00, out of which P6,500.00 was paid to the vendors; Gideon and Asuncion verbally agreed that plaintiffs would be indicated as the sole vendees in the deed of sale as they were the GSIS members; defendants had already paid their share of the purchase price of the property as of 1978, except for the amount of P332.00; and, insofar as the one-half portion on the western side of the property was concerned, plaintiffs were trustees for defendants, who likewise owned the same. Defendants interposed counterclaims for damages and prayed that the said one-half portion be reconveyed to them.[4]

During the trial, the spouses Dulay adduced in evidence the following: the Deed of Absolute Sale dated January 16, 1957, with Gideon as an instrumental witness;[5] the tax declarations in their names covering the property; and receipts of realty tax payments made over the property.[6]

Defendants spouses Dela Rosa adduced in evidence a small notebook containing therein an alleged list of payments to the spouses Dulay of their share in the purchase price of the property.[7] They presented an NBI Questioned Documents Expert to prove the authenticity of the signature of Asuncion Dulay on one of the receipts.[8] However, Asuncion denied that she bought the property with her brother Gideon, and that she received any amount from him and his wife as part of the purchase price of the property. She likewise denied that it was her signature that appeared on the purported receipt.

On July 17, 1987, the trial court rendered judgment in Civil Case No. 6261 in favor of the spouses Dulay and ordered the spouses Dela Rosa and Corazon Medina to vacate the property and turn over possession to plaintiffs.[9] The trial court declared:

ANALYZING THE EVIDENCE, there is no doubt that the registered owners of the lots in question are the plaintiffs-spouses Arsenio Dulay and Asuncion dela Rosa (Exhibits "A" and "B"). They bought these lots from the spouses Adriano Rivera and Aurora Mercado (Exhibits "D" and "D-1").

Defendants' claim that they bought from the plaintiffs one-half (1/2) portion of the lots in question is untenable. Firstly, if it is true as claimed by them that there was such an agreement to purchase from the plaintiffs a portion of the lots in question, why did they not reduce [the] same in writing? In fact, it's the defendants, particularly Gideon dela Rosa, who induced and accompanied the plaintiffs to go to a Notary Public for the execution of Exhibit "D." The amounts mentioned in Exhibit "5" does (sic) not clearly indicate whether they were payments made for the purchase price in installment or for monthly rentals for their occupation of Lot 3-B-2. The defendants were the only ones who made entries; and a perusal of such entries were not recorded in sequence of alleged monthly payment but merely entries dictated and/or written at will.

Regarding Exhibit 6 and the alleged signature of plaintiff Asuncion dela Rosa, the report (Exhibit "7," "7-A" and "7-B") and the testimony of the Chief NBI handwriting expert when presented by the defendants themselves is very emphatic. Thus:

"However, the question signature was signed over a typewritten carbon or duplicate..."

What we mean by that, Sir, is that there is here a purported receipt with the body typewritten underlining below the supposed signature Asuncion R. Dulay, it is a little surprising because if a document is prepared in one occasion, then the body should be in ribbon impression and the underlining should be in ribbon. The supposed typewritten body above the signature is an original ribbon impression, that is, it is direct from the typewritten with the ribbon striking the sheet of paper, the underlining, however, on which the signature is signed is a carbon impression, that means it is a duplicate impression. (pp. 8-9, tsn., Oct. 30/85).[10]

The spouses Dela Rosa and Corazon Medina appealed to the CA. The case was docketed as CA-G.R. CV No. 15455. On June 29, 1990, the appellate court rendered judgment granting the appeal and reversed the trial court's

ruling. According to the appellate court, the complaint was premature on account of plaintiffs' failure to allege, in their complaint, that there had been earnest efforts to have the case amicably settled as mandated under Article 222 of the New Civil Code.[11]

The spouses Dulay filed a Motion for Extension of Time to File a Petition for Review on Certiorari with this Court which was granted. The motion was recorded as UDK-10069. However, the spouses Dulay failed to file their petition. Thus, on November 19, 1990, the Court resolved to declare final and executory the decision of the CA in CA-G.R. CV No. 15455 for failure of plaintiffs-appellees to file their petition for review.[12] The resolution of the Court became final and executory.[13]

In the meantime, Gideon died. His wife Angela and Corazon Medina continued residing in the property without paying any rentals therefor. Asuncion Dulay passed away on June 26, 1995, survived by her husband Arsenio and their children: Orfelina Roldan, Lorna San Diego, Flordeliza Catacutan, and Norma Lacuesta.

In a letter dated October 2, 1995, Arsenio and his children, through counsel, made demands on Corazon and Angela to vacate the property within 30 days from receipt thereof, with a warning that failure to do so would impel them to file the necessary legal action.[14] Nevertheless, they suggested a conference to discuss the amicable settlement of the matter. Corazon and Angela ignored the letter. This prompted Arsenio and his children to file a complaint for eviction against Angela and Corazon in the Office of the Barangay Captain. The parties did not arrive at a settlement, and on December 1, 1995, the Pangkat Secretary issued a certification to file action.[15]

On January 29, 1996, Arsenio and his children, as plaintiffs, filed a complaint for unlawful detainer against Corazon and Angela, as defendants, in the MTC of Tarlac, Tarlac. Plaintiffs alleged the following:

- Plaintiffs are the co-owners of two adjoining parcels of residential land located at Tarlac, Tarlac, and more particularly described as follows:

Transfer Certificate of Title No. 29040

"A parcel of land (Lot "B" of the subdivision plan Psd-2284, being a portion of the land described on the original plan II-5215, G.L.R.O. Record No. 7962), situated in the Barrio of San Roque, Municipality of Tarlac, Province of Tarlac. Bounded on the N.E., by Lot "C" of the subdivision plan; on the S.E., by Lot No. "3-B-2" of the subdivision plan and property of Concepcion Cider; on the W., by property of Timotea Mercado; and on the N.W., by Lot "A" of the subdivision plan, containing an area of TWO HUNDRED SIXTY-ONE (261) SQUARE METERS, more or less."

Transfer Certificate of Title No. 29041

"A parcel of land (Lot No. "3-B-2" of the subdivision plan Psd-2284, being a portion of Lot No. "3-B," plan II-2977-Amd., G.L.R.O. Record No. 1955), situated in the Barrio of San Roque, Municipality of Tarlac, Province of Tarlac. Bounded on the N.E., by Lot 87-C of the subdivision plan; on the S.E., by Lot No. 3-B-1 of the subdivision plan; on the S.W., by property of Concepcion Cider; and on the N.W., by Lot B of the subdivision plan, containing an area of SEVEN HUNDRED SEVENTY-TWO (772) SQUARE METERS, more or less."

Copies of the transfer certificates of title are attached as Annexes "A" and "B," respectively. The total assessed value of said lands does not exceed Twenty Thousand Pesos (P20,000.00).

- Said parcels of land were formerly owned by the spouses Asuncion dela Rosa and Arsenio Dulay. Plaintiffs Orfelina Roldan, Lorna San Diego, Flordeliza Catacutan, and Norma Lacuesta are the children of the spouses Asuncion dela Rosa and plaintiff Arsenio Dulay. Upon the death of Asuncion dela Rosa on 26 June 1995, said parcels of land became jointly owned by herein plaintiffs. A copy of Asuncion dela Rosa's certificate of death is attached as Annex

- The spouses Dulay bought said parcels of land sometime in 1957. Defendants and their predecessors-in-interest have occupied and are continuously occupying about five hundred (500) square meters, more or less, of said parcels of land. Defendants and their predecessors-in-interest have occupied said parcels of land since 1957 without paying any rent.
- The occupation by defendants of said parcels of land were at the mere tolerance of the spouses Dulay and, thereafter, of the plaintiffs. Defendants have promised to vacate the premises if and when needed by the spouses Dulay and plaintiffs.
- Demands were made on defendants to vacate the premises, which demands, however, were ignored and not heeded. Defendants refused and continues to refuse to vacate the premises. A copy of the final demand letters sent to Angela dela Rosa and Corazon Medina are attached as Annexes "D" and "E," respectively.
- In an attempt to arrive at an amicable settlement and in recognition of their being blood relatives, plaintiffs exerted earnest efforts towards a compromise with defendants. Defendants were invited to discuss and settle the matter amicably. Defendants, however, refused to meet and discuss any settlement and ignored the invitation extended by plaintiffs.
- In compliance with Section 412 of the Local Government Code (R.A. No. 7160) and as a further attempt to settle the dispute amicably, plaintiffs brought the matter to the lupon tagapamayapa of their barangay. Defendants, however, refused to discuss an amicable settlement. The certification to file action issued by the lupon chairman is attached and made an integral part hereof as Annex "F."
- Defendants have been occupying and using the premises without paying any rent therefor. The present reasonable rental value of the premises is Fifty Pesos (P50.00) per month, which amount defendants should be made to pay from September 1957 until possession is restored to plaintiffs.
- By reason of the unjustifiable refusal to vacate and the unlawful detainer of the subject property by defendants and all persons claiming rights under them, plaintiffs were constrained to seek redress in court to protect their own rights and interests, thereby causing them to incur litigation expenses in the amount of not less than Fifty Thousand Pesos (P50,000.00), for which amount the defendant should be made liable to plaintiffs.[16]

Plaintiffs therein prayed that, after due proceedings, judgment be rendered in their favor as follows:

WHEREFORE, premises considered, plaintiffs most respectfully pray that, after trial, judgment be rendered by this Honorable Court in favor of plaintiffs and ordering as follows:

- Defendants and all persons claiming rights under them to immediately vacate the premises;
- Defendants to pay all rental arrears at the monthly rate of P50.00 from September 1957 until possession is restored or a total of P23,000.00;
- Defendants to pay litigation expenses in the amount of P50,000.00; and
- Defendants to pay the costs of this suit.
- Plaintiffs pray for such other and further reliefs just and equitable under the premises.[17]

The case was docketed as Civil Case No. 6089.

In their answer, defendants reiterated their allegations in their answer to the complaint in Civil Case No. 6261 in the CFI of Tarlac.

On April 30, 1996, Angela filed a complaint against Arsenio and his children in the MTC of Tarlac, Tarlac for recovery of ownership, reconveyance, cancellation of title, and damages. The case was docketed as Civil Case

No. 6154. Angela, as plaintiff, reiterated her allegations in her answer and counterclaim in Civil Case No. 6261 as allegations comprising her causes of action. She prayed that, after due proceedings, judgment be rendered in their favor, thus:

WHEREFORE, it is most respectfully prayed of this Hon. Court that judgment shall issue:

- Ordering that an immediate temporary restraining order restraining the defendants from disturbing the possession of the Plaintiff over the property in question until the case is finally dissolved;
- Declaring the Plaintiff as owner of the one-half (1/2) property in question, thereby reconveying the ownership thereof and cancelling the title;
- Ordering the defendants, jointly and severally, to pay Plaintiff the amount of P30,000.00 as attorney's fee, plus P1,000.00 per hearing;
- Ordering the defendants, jointly and severally, to pay Plaintiff the amount of P10,000.00 as acceptance fee, plus P20,000.00 as litigation expenses;
- Ordering the defendants, jointly and severally, to pay Plaintiff the amount of P20,000.00 as exemplary damages;
- Ordering the defendants, jointly and severally, to pay Plaintiff the amount of P10,000.00 as moral damages;
- And granting such other reliefs and remedies just and equitable in the premises.[18]

On July 17, 1996, the MTC issued a pre-trial order in Civil Case No. 6089 defining the issue, thus:

Whether or not Unlawful Detainer is proper in the premises considering the claim of ownership by defendants from the beginning of these litigations sometime in 1982 followed by this case at bench. Otherwise stated, is the occupation of the land in dispute by the defendants by tolerance of plaintiffs.[19]

On September 25, 1996, the MTC rendered judgment in Civil Case No. 6089 in favor of Corazon and Angela and ordered the dismissal of the complaint on the ground of lack of jurisdiction.[20] The court held that the issue between the parties was one of ownership and not merely possession de facto. Thus, the possession of the property by defendants was not by mere tolerance, but by virtue of a claim of ownership; in fact, defendants never recognized the plaintiffs' claim of ownership over the property. In ruling against Arsenio and his children, the trial court relied on their pleadings, the decision of the CFI in Civil Case No. 6261, the ruling of the CA in CA-G.R. CV No. 15455, and the resolution of this Court in UDK-10069.[21] It declared that, although the CA reversed the decision of the CFI in Tarlac, the facts show that the dispute between the parties constitutes possession de jure; the action of the spouses Dulay in Civil Case No. 6261 which was an accion publiciana cannot be converted into one for unlawful detainer in Civil Case No. 6089. Arsenio and his children appealed to the RTC. The case was docketed as Civil Case No. 8396. On June 25, 1997, it reversed the decision of the MTC and ordered the eviction of defendants, holding that the issue was the entitlement to the physical possession de facto of the property, an issue within the exclusive jurisdiction of the MTC;[22] in contrast, the issue between the parties in Civil Case No. 6261 was possession de jure and not possession de facto. The RTC further declared that the spouses Dulay had a torrens title over the property which was conclusive against the whole world; as such, they were entitled to the possession of the property as owners thereof. Citing the ruling of this Court in *Peran v. Espera*,[23] the RTC ruled that Corazon and Angela possessed the property for a considerable length of time only through mere tolerance of plaintiffs.

Corazon and Angela moved to reconsider the decision, which the RTC denied in an Order[24] dated September 22, 1997. They filed a petition for review in the CA, praying that the RTC decision be reversed and the decision

of the MTC be affirmed. Angela claimed that she owned one-half of the property as co-owner of the spouses Dulay. The case was docketed as CA-G.R. SP No. 45560.

On March 16, 1998, the CA rendered judgment in CA-G.R. SP No. 45560 affirming the decision of the RTC and dismissing the petition. The CA ruled that, contrary to the claim of Angela, there was no trust created over one-half of the property in her favor. Since the complaint against Angela and Corazon in the MTC was one for unlawful detainer, the MTC had exclusive jurisdiction over the case. Moreover, they had been in possession of the property by tolerance. In any case, their action was barred by prescription and laches.

Angela and Corazon filed a motion for reconsideration, which the CA denied.

Angela and Corazon, now petitioners, filed the instant petition for review on certiorari, claiming that the CA erred as follows:

I

THE HON. COURT OF APPEALS, WITH DUE RESPECT, ERRED IN CONSIDERING THAT THE CASE AT BAR IS ONE OF UNLAWFUL DETAINER, WHEN IT IS ONE OF RECOVERY OF OWNERSHIP AND POSSESSION.

II

THE HON. COURT OF APPEALS, WITH DUE RESPECT, ERRED IN CONSIDERING THAT THERE WAS NO TRUST CREATED BY AGREEMENT OF THE PARTIES.

III

THE HON. COURT OF APPEALS, WITH DUE RESPECT, ERRED IN CONSIDERING THAT THE PETITIONERS' CLAIM HAS BEEN BARRED BY PRESCRIPTION OR LACHES.

IV

THE HON. COURT OF APPEALS, WITH DUE RESPECT, ERRED IN AWARDING ATTORNEY'S FEE FOR RESPONDENTS.[25]

According to petitioners, during the pre-trial in the MTC, the parties stipulated on the following issues to be resolved by the court: whether or not the action for unlawful detainer of respondents was proper considering that petitioners claimed ownership over the property in their answer to the complaint; and whether petitioners possessed the property by mere tolerance of respondents. Petitioners insist that during the pre-trial conference, respondents admitted that they had filed a complaint for recovery of possession of property against petitioners in the CFI of Tarlac, docketed as Civil Case No. 6261.

Petitioners maintain that the principal issue is one of ownership over the property and not merely whether or not respondents, as plaintiffs, were entitled to possession de facto as the registered owners thereof; hence, the MTC had no jurisdiction over the action of respondents.

Petitioners are of the view that the trial court and the CA erred in declaring that there was no trust created over the property. They maintain that there was a verbal agreement between Gideon and his sister Asuncion that the property would be purchased by them; that the purchase price thereof would be advanced by Asuncion; that Asuncion would be indicated as the vendee in the deed of absolute sale to enable her to secure a GSIS loan to pay for the property, with the concomitant agreement that Gideon would pay one-half of the purchase price for the property; and that the property will be titled in their name as trustees for the spouses Gideon and Angela dela Rosa over one-half portion of the lots. They insist that they are not barred from assailing the deed of absolute sale

executed in favor of the spouses Dulay by the spouses Rivera. There is likewise no factual and legal basis for the award of attorney's fees.

In their comment on the petition, respondents aver that the stay of petitioners in the property after 1982 was by mere tolerance. The MTC had exclusive jurisdiction over their action because it was filed within one year from petitioners' last demand to vacate the property. The CA correctly ruled that no trust was created over the property, with petitioners as trustors and respondents as trustees; whether a trust agreement was created is a question of fact which cannot be raised in this Court in a petition for review on certiorari.

In any event, petitioners' claim of a constructive trust was barred by prescription since more than ten years had elapsed from the time the titles over the properties in favor of respondents were issued on September 16, 1957.

Respondents further point out that the MTC of Tarlac rendered judgment in Civil Case No. 6154 dismissing the complaint on the ground of prescription or laches; on April 6, 2000, the RTC affirmed the decision on appeal; the CA affirmed the decision in CA-G.R. SP No. 58857 on February 14, 2002; and on January 22, 2003, this Court denied petitioners' petition for review of the decision of the CA in G.R. No. 155599.[26] Thus, the fact that no constructive trust existed in favor of petitioners has been laid to rest by the Court.

The Ruling of the Court

The threshold issues are: (1) whether the MTC had jurisdiction over the action of respondents (plaintiffs therein); (2) whether the CA erred in declaring that there was no trust relationship between petitioners as trustors and respondents as trustees; (3) whether the appellate court erred in ruling that the action of petitioners to enforce the trust against respondents had prescribed; and (4) whether respondents are entitled to attorney's fees.

On the first issue, we agree with the decision of the CA that the action of respondents against petitioners was one for unlawful detainer, and that the MTC had jurisdiction over the same. Indeed, petitioners claimed ownership over one-half of the property in their answer to the complaint and alleged that respondents were merely trustees thereof for their benefit as trustors; and, during the pre-trial, respondents admitted having filed their complaint for recovery of possession of real property (accion publiciana) against petitioners before the CFI of Tarlac, docketed as Civil Case No. 6261. However, these did not divest the MTC of its inceptual jurisdiction over the complaint for unlawful detainer of respondents.

It is settled jurisprudence that what determines the nature of an action as well as which court or body has jurisdiction over it are the allegations of the complaint and the character of the relief sought, whether or not plaintiff is entitled to any and all of the reliefs prayed for.[27] The jurisdiction of the court or tribunal over the nature of the action cannot be made to depend upon the defenses set up in the court or upon a motion to dismiss, for otherwise, the question of jurisdiction would depend almost entirely on defendant. Once jurisdiction is vested, the same is retained up to the end of the litigation.[28]

Jurisdiction cannot be conferred by the voluntary act or agreement of the parties; it cannot be acquired through or waived, enlarged or diminished by their act or omission. Neither is it conferred by the acquiescence of the court. It is neither for the court nor the parties to violate or disregard the rule, this matter being legislative in character. Thus, the jurisdiction over the nature of an action and the subject matter thereof is not affected by the theories set up by defendant in an answer or motion to dismiss.[29]

Section 3 of Republic Act No. 7691, amending Section 33(2) of Batas Pambansa Blg. 129, which was the law in effect when respondents filed their complaint against petitioners, provides that "Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts exercise exclusive original jurisdiction over cases of forcible entry and unlawful detainer; provided that, when, in such cases, defendant raises the questions of

ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issues of possession."

As gleaned from the averments of the complaint, respondents, as plaintiffs below, alleged that they were the owners of parcels of land covered by TCT Nos. 29040 and 29041, hence, entitled to the possession of the property; petitioners (defendants therein) and their predecessors-in-interest had occupied the said parcels of land since 1957 without paying any rent; their possession over the property continued even after the spouses Dulay purchased the property; and that their occupation of the property was by mere tolerance of the spouses Dulay and, after Asuncion died on June 26, 1995, by respondents; petitioners promised to vacate the premises when respondents needed the property; demands were made by respondents on October 2, 1995 for petitioners to vacate the property but the latter refused, prompting an action to be filed in the Office of the Pangkat; and, on December 1, 1995, the Pangkat Secretary issued a certification to file action. As gleaned from the petitory portion of the complaint, respondents likewise prayed for the eviction of petitioners from the property with a plea for judgment for reasonable compensation for petitioners' occupation of the premises. Respondents filed their complaint on January 29, 1996 in the MTC, within the period of one year from the final demand made against petitioners to vacate the property.

It is true that during the pre-trial, the MTC issued an order defining the issue to be litigated by the parties "whether or not unlawful detainer is proper in the premises considering defendants' claim of ownership from 1982; otherwise stated, whether petitioners' occupation of the land in dispute was by mere tolerance of respondents. As framed by the MTC, the issue before it was basically one of physical or material possession of the property, although petitioners raised ownership as an issue. Thus, the MTC erred when it declared that, since defendants claimed ownership over the property, it was divested of its jurisdiction to take cognizance of and decide the case on its merits.

It bears stressing that in unlawful detainer cases, the only issue for resolution, independent of any claim of ownership by any party litigant, is: who is entitled to the physical and material possession of the property involved? The mere fact that defendant raises the defense of ownership of the property in the pleadings does not deprive the MTC of its jurisdiction to take cognizance of and decide the case. In cases where defendant raises the question of ownership in the pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the court may proceed and resolve the issue of ownership but only for the purpose of determining the issue of possession. However, the disposition of the issue of ownership is not final, as it may be the subject of separate proceeding specifically brought to settle the issue. Hence, the bare fact that petitioners, in their answer to the complaint, raised the issue of whether they owned the property as trustors of a constructive trust (with the spouses Dulay as the trustees), did not divest the MTC of its jurisdiction to take cognizance of the case and decide the same on its merits.[30]

Petitioners were well aware that the issue of ownership over the property had to be resolved in a proper action for the purpose, separate from and independent of Civil Case No. 6089 in the MTC of Tarlac. It is for this reason that petitioner Angela filed a complaint for recovery of ownership, reconveyance, cancellation of title and damages against respondents, docketed as Civil Case No. 6154, wherein she prayed that respondents, as defendants, be ordered to convey to her one-half portion of the property. However, her claim was rejected by the trial court, which ordered the complaint dismissed; the RTC likewise dismissed the case on appeal. In affirming this dismissal in CA-G.R. SP No. 58857 promulgated on February 14, 2002, the CA ratiocinated as follows:

Nevertheless, notwithstanding the foregoing, this Court finds that petitioner's complaint should be dismissed. This is so because petitioner miserably failed to establish her claim to the property. It must be stressed that while an implied trust may be established by parol evidence, such evidence must be as fully convincing as if

the acts giving rise to the trust obligation are proven by an authentic document. (Heirs of Lorenzo Yap v. Court of Appeals, 312 SCRA 603 [1999], at page 609). An implied trust cannot be made to rest on vague and inconclusive proof. (Ibid.)

Unfortunately for petitioner, the evidence she presented in her attempt to establish their so-called trust agreement is not sufficient or convincing. The list of dates and amounts written by her purportedly showing payments made to the late Asuncion dela Rosa Dulay cannot even be given credence as appreciation of such list can be equivocal (see Exhibit "H," page 152, Original Records). The list was made in petitioner's handwriting and there was no counter-signature made by Dulay showing acknowledgment of such listing. At best, the list can merely be appreciated as it is, a list, but definitely, it does not prove payments made on the purchase price of the $\frac{1}{4}$ portion of the property.

Also, the Court notes the NBI's Questioned Documents Report No. 316-884 (dated Nov. 14, 1984) finding that the signature of Asuncion Dulay in the receipt allegedly acknowledging partial payment in the amount of P500.00 was signed over a typewritten carbon or duplicate impression which is not part of the main entries in the receipt (see Exhibit "7," page 154, Original Records). Such conclusion shows that the entries made on the receipt were not written on a single occasion but rather separately executed. Thus, the Court cannot give any evidentiary value on said receipt considering that its credibility is suspect.

Meanwhile, private respondents have in their favor TCT Nos. 29040 and 29041 in the name of the spouses Arsenio Dulay and Asuncion dela Rosa (see Exhibits "1" and "2," pages 181-182, Original Records); the Deed of Absolute Sale executed in 1957 by the spouses Adriano Rivera and Aurora Mercado (petitioner's paternal grandparents) conveying the entire property to the spouses Dulay for the price of P7,000 (see Exhibit "3," page 148, Original Records); the tax declaration receipts showing tax payments made by private respondents on the property (see Exhibits "3" to "3-b," pages 183-185, Original Records); and the tax declaration of real property for the year 1974 in the name of the spouses Dulay (see Exhibit "C" to "C-1," pages 150-151, Original Records).

All told, petitioner failed to discharge that onus incumbent upon her to prove her claim over the property.[31]

Angela assailed the decision of the CA in this Court in G.R. No. 155599, and this Court resolved to deny the petition as follows:

G.R. No. 155599 (Angela dela Rosa v. Orfelina Roldan, et al.). - Considering the allegations, issues, and arguments adduced in the petition for review on certiorari of the decision and resolution of the Court of Appeals dated February 14, 2002 and October 14, 2002, respectively, the Court Resolves to DENY the petition for failure of the petitioner to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution as to warrant the exercise by this Court of its discretionary appellate jurisdiction in this case.[32]

The resolution of the Court became final and executory on May 20, 2003.[33] Thus, the issue of whether or not respondents were trustees of one-half of the property had been finally resolved by this Court in favor of respondents; in fine, the validity of TCT Nos. 29040 and 29041 in the names of the spouses Dulay had been affirmed by the trial court, the MTC, the CA and this Court. The claim of co-ownership of petitioner Angela and possession over the western portion of the property thus have no factual and legal basis.

We agree with petitioners that the complaint of the spouses Dulay filed in 1982 docketed as Civil Case No. 6261 was one for recovery of possession of the property (accion publiciana) and that they likewise later filed a complaint with the MTC, on January 29, 1996, for unlawful detainer in Civil Case No. 6089 instead of an accion publiciana. However, respondents were not proscribed from filing a complaint for unlawful detainer five (5) or six (6) years from the dismissal of their complaint for recovery of possession of real property. The dismissal of respondents' complaint in Civil Case No. 6261 by the CA was not based on the merits of the case, but solely

because it was premature on account of the failure to allege that earnest efforts were made for the amicable settlement of the cases as required by Article 222 of the New Civil Code. The dismissal of the complaint was thus without prejudice.[34]

It bears stressing that, after the Court declared in UDK-10069 on November 19, 1990 that the decision of the CA in CA-G.R. CV No. 15455 was final and executory, respondents did not immediately file their complaint for unlawful detainer against petitioners for their eviction. Respondents filed their complaint only on January 29, 1996, or after the lapse of almost six (6) years, but barely four (4) months after respondents' final demand to vacate the property on October 2, 1995 and the issuance of the certification of the Pangkat Secretary on December 1, 1995.

We agree with the contention of petitioners that for an action for unlawful detainer based on possession by mere tolerance to prosper, the possession of the property by defendant must be legal from the very beginning.[35] In this case, petitioners' possession of the property was tolerated by the former owners, the spouses Rivera, and by the spouses Dulay after they purchased the property. After all, Angela was the granddaughter of Consolacion Rivera, the sister of Adriano Rivera, and Gideon was the brother of Asuncion. However, when the spouses Dulay needed the property for their children's use and requested petitioners to vacate the property, the latter refused. From then on, petitioners' possession of the property became deforciant. A person who occupies the land of another on the latter's tolerance, without any contract between them, is necessarily barred by an implied provision that he will vacate the same upon demand.[36] Respondents thus had the option to file a complaint for unlawful detainer within one year therefrom, or an accion publiciana beyond the one-year period from the demand of respondents as plaintiffs for petitioners to vacate the property.

The Court notes that the property was sold to respondents, and that it was titled in their names (TCT Nos. 29040 and 29041). The said deed and titles support the right of respondents to the material possession of the property.[37] Under all the circumstances and facts in this case, petitioners' claim, that they had the right to the material possession of the property, has no factual and legal basis. We quote with approval the decision of the CA in CA-G.R. SP No. 45560:

Private respondents are entitled to its possession from the time title was issued in their favor as registered owners. "An action for unlawful detainer may be filed when possession by a landlord, vendor, vendee or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of their right to hold possession, by virtue of a contract, express or implied."

Second. "The age-old rule is that 'the person who has a torrens title over a land is entitled to possession thereof.'" Except for the claim that the title of private respondents is not conclusive proof of ownership, petitioners have shown no right to justify their continued possession of the subject premises.[38]

On the issue of whether the RTC acted in excess of its appellate jurisdiction in awarding P50,000.00 as attorney's fees in favor of respondents, petitioners aver that under the Rules on Summary Procedure, respondents are entitled to a maximum amount of only P20,000.00; hence, the RTC acted in excess of its jurisdiction when it awarded P50,000.00 as attorney's fees, as it is in excess of the maximum amount under the said Rules. Besides, petitioners aver, the amount of P50,000.00 is unjust and inequitable. Moreover, the RTC ordered petitioners to pay attorney's fees of P50,000.00 without even supporting the award with its finding and citing legal provisions or case law.

For its part, the CA ruled that the award of P50,000.00 as attorney's fees under the Rules on Summary Procedure does not apply in a case where the decision of the MTC is appealed to the RTC. The latter court may award an amount beyond the maximum amount of P20,000.00 under the Rules on Summary Procedure as attorney's fees for the reason that, on appeal in the RTC, the regular rules of civil procedure apply. According to the CA, there was

factual and legal basis for the award of P50,000.00 as respondents' attorney's fees:

Second. Decisional law states -

"There is no question that a court may, whenever it deems just and equitable, allow the recovery by the prevailing party of attorney's fees. In determining the reasonableness of such fees, this Court in a number of cases has provided various criteria which, for convenient guidance, we might collate, thusly: a) the quantity and character of the services rendered; b) the labor, time and trouble involved; c) the nature and importance of the litigation; d) the amount of money or the value of the property affected by the controversy; e) the novelty and difficulty of questions involved; f) the responsibility imposed on counsel; g) the skill and experience called for in the performance of the service; h) the professional character and social standing of the lawyer; i) the customary charges of the bar for similar services; j) the character of employment, whether casual or for established client; k) whether the fee is absolute or contingent (it being the rule that an attorney may properly charge a higher fee when it is contingent than when it is absolute; and l) the results secured."

In view thereof, the award of attorney's fees is justified. That is, in addition to the provisions of Article 2208 of the New Civil Code which reads -

"In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;"

x x x x

considering that petitioners refused to vacate the subject premises despite demands by the private respondents.

Finally, the Supreme Court has explained -

"The Rule on Summary Procedure applies only in cases filed before the Metropolitan Trial Court and Municipal Trial Courts pursuant to Section 36 of Batas Pambansa Blg. 129. x x x Hence, when the respondents appealed the decision of the Municipal Trial Court to the Regional Trial Court, the applicable rules are those of the latter court."

Thus, the award of the amount of fifty thousand pesos (P50,000.00) as attorney's fees is justified considering that the jurisdictional amount of twenty thousand pesos (P20,000.00) under Section 1, paragraph (A), subparagraph (1) of the Revised Rule on Summary Procedure applies only to the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts.[39]

We agree with the ruling of the CA. The ceiling of P20,000.00 applies only in the MTC where the Rules on Summary Procedure are applied. On appeal to the RTC, the RTC may affirm, modify or even reverse the decision of the MTC; as such, the RTC may increase the award for attorney's fees in excess of P20,000.00 if there is factual basis therefor.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. Costs against the petitioners.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, and Chico-Nazario, JJ., concur.

Austria-Martinez, J., no part.

[1] Penned by Associate Justice Demetrio G. Demetria, with Associate Justices Minerva P. Gonzaga-Reyes (later

appointed Supreme Court Associate Justice, now retired) and Ramon A. Barcelona (retired), concurring; rollo, pp. 108-118.

[2] CA rollo, p. 26.

[3] Rollo, pp. 34-38.

[4] Id. at 39-40.

[5] Exhibits "D," "D-1" to "D-2."

[6] Exhibits "C," "F," "F-1" to "F-2."

[7] Exhibits "5" to "5-a."

[8] Exhibit "F."

[9] Rollo, pp. 34-49.

[10] CA rollo, pp. 29-31.

[11] Rollo, pp. 50-55.

[12] Id. at 56.

[13] CA rollo, p. 40.

[14] Rollo, p. 64.

[15] Id. at 65.

[16] Id. at 58-62.

[17] Id. at 60-61.

[18] CA rollo, pp. 55-56.

[19] Id. at 62.

[20] Id. at 60-71.

[21] Exhibits "1," "2" and "3."

[22] CA rollo, pp. 72-81.

[23] G.R. No. L-57259, October 13, 1983, 125 SCRA 78.

[24] CA rollo, p. 90.

[25] Rollo, p. 16.

[26] Id. at 294-301.

[27] *Union Bank of the Philippines v. Court of Appeals*, 352 Phil. 808, 828-829 (1998).

[28] *Heirs of Raphael Magpili v. De Jesus*, G.R. No. 167748, November 8, 2005, 474 SCRA 366.

[29] *Ramos v. Stateland Investment Corporation*, G.R. No. 161973, November 11, 2005, 474 SCRA 726, 737-738, citing *Oca v. Court of Appeals*, 378 SCRA 642 (2002).

[30] Tumlos v. Fernandez, G.R. No. 137650, April 12, 2000, 330 SCRA 718; Tala Realty Services Coporation v. Banco Filipino Savings and Mortgage Bank, G.R. No. 129887, February 17, 2000, 325 SCRA 768; Arcal v. Court of Appeals, G.R. No. 127850, January 26, 1998, 285 SCRA 34; Refugia v. Court of Appeals, G.R. No. 118284, July 5, 1996, 258 SCRA 347.

[31] Rollo, pp. 298-299.

[32] Id. at 301.

[33] Id.

[34] Section 5, Rule 16 of the Revised Rules of Court.

[35] Valdez, Jr. v. Court of Appeals, G.R. No. 132424, May 4, 2006.

[36] Refugia v. Court of Appeals, supra note 30.

[37] Boy v. Court of Appeals, G.R. No. 125088, April 14, 2004, 427 SCRA 196, 206.

[38] Rollo, p. 116.

[39] Id. at 117-118.

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