SPS. RICARDO AND LYDIA LLOBRERA, SPS. BENJAMIN AND ESTHER LLOBRERA, SPS. MIKE AND RESIDA MALA, SPS. OTOR AND DOLINANG BAGONTE, SPS. EDUARDO AND DAMIANA ICO, SPS. ANTONIO AND MER...

G.R. NO. 142882. May 02, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

Under consideration is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals (CA) in CA-G.R. SP No. 48918, to wit:

> - Decision dated June 30, 1999,[1] affirming the Decision dated August 7, 1998 of the Regional Trial Court (RTC) of Dagupan City, Branch 41, in Civil Case No. 98-02353-D which affirmed an earlier decision of the Municipal Trial Court in Cities (MTCC), Dagupan City, Branch 2, in Civil Case No. 10848, entitled "Josefina F. De Venecia Fernandez vs. Sps. Mariano and Lourdes Melecio, et al.," an action for ejectment.
>
> - Resolution dated March 27, 2000,[2] denying petitioners' motion for reconsideration.

Subject of the controversy is a 1,849 square-meter parcel of land, covered by Transfer Certificate of Title No. 9042. Respondent Josefina V. Fernandez, as one of the registered co-owners of the land, served a written demand letter upon petitioners Spouses Llobrera, et al., to vacate the premises within fifteen (15) days from notice. Receipt of the demand letter notwithstanding, petitioners refused to vacate, necessitating the filing by the respondent of a formal complaint against them before the Barangay Captain of Barangay 11, Dagupan City. Upon failure of the parties to reach any settlement, the Barangay Captain issued the necessary certification to file action.

Respondent then filed a verified Complaint for ejectment and damages against the petitioners before the MTCC of Dagupan City, which complaint was raffled to Branch 2 thereof.

By way of defense, petitioners alleged in their Answer that they had been occupying the property in question beginning the year 1945 onwards, when their predecessors-in-interest, with the permission of Gualberto de Venecia, one of the other co-owners of said land, developed and occupied the same on condition that they will pay their monthly rental of P20.00 each. From then on, they have continuously paid their monthly rentals to Gualberto de Venecia or Rosita de Venecia or their representatives, such payments being duly acknowledged by receipts. Beginning sometime June 1996, however, the representative of Gualberto de Venecia refused to accept their rentals, prompting them to consign the same to Banco San Juan, which bank deposit they continued to maintain and update with their monthly rental payments.

In a decision dated February 18, 1998, the MTCC rendered judgment for the respondent as plaintiff, thus:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

- Ordering each of the defendants to vacate the portion of the land in question they respectively occupy and to restore the possession thereof to the plaintiff and her co-owners;

- Ordering each of the defendants to pay to the plaintiff the amount of P300.00 per month from January 17, 1997 until they vacate the land in question as the reasonable compensation for the use and occupation of the premises;

- Ordering the defendants to pay proportionately the amount of P10,000.00 as attorney's fee and P2,000.00 as litigation expenses, and to pay the cost of suit.

SO ORDERED.

On petitioners' appeal to the RTC of Dagupan City, Branch 41 thereof, in its decision of August 7, 1998, affirmed the foregoing judgment.

Therefrom, petitioners went to the CA whereat their recourse was docketed as CA-G.R. SP. No. 48918. As stated at the threshold hereof, the CA, in its Decision of June 30, 1999, affirmed that of the RTC. With the CA's denial of their motion for reconsideration, in its Resolution of March 27, 2000, petitioners are now before this Court with the following assignment of errors:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN:

- HOLDING THAT THE OCCUPATION AND POSSESSION OF THE PROPERTY IN QUESTION IS BY MERE TOLERANCE OF THE RESPONDENT.

- HOLDING THAT THE FAILURE OF THE PETITIONERS (DEFENDANTS) TO VACATE THE PREMISES AFTER DEMANDS WERE MADE UPON THEM IS A VALID GROUND FOR THEIR EJECTMENT.

- HOLDING THAT THE CONSIGNATION MADE BY PETITIONERS IN CONTEMPLATION OF ARTICLE 1256 OF THE NEW CIVIL CODE IS NOT LEGALLY TENABLE.

- AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT DATED AUGUST 7, 1998 WHICH, LIKEWISE AFFIRMED THE DECISION OF THE MTCC DECISION DATED FEBRUARY 18, 1998 INSOFAR AS THE ORDER FOR THE PETITIONERS (DEFENDANTS) TO PAY RENTAL AND ATTORNEY'S FEES AND LITIGATION EXPENSES.

At the heart of the controversy is the issue of whether petitioners' possession of the subject property is founded on contract or not. This factual issue was resolved by the three (3) courts below in favor of respondent. As tersely put by the CA in its assailed decision of June 30, 1999:

> Petitioners failed to present any written memorandum of the alleged lease arrangements between them and Gualberto De Venecia. The receipts claimed to have been issued by the owner were not presented on the excuse that the March 19, 1996 fire burned the same. Simply put, there is a dearth of evidence to substantiate the averred lessor-lessee relationship. x x x.[3]

Consistent with this Court's long-standing policy, when the three courts below have consistently and unanimously ruled on a factual issue, such ruling is deemed final and conclusive upon this Court, especially in the absence of any cogent reason to depart therefrom.

From the absence of proof of any contractual basis for petitioners' possession of the subject premises, the only legal implication is that their possession thereof is by mere tolerance. In Roxas vs. Court of Appeals,[4] we ruled:

> A person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which, a summary

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> action for ejectment is the proper remedy against him.

The judgment favoring the ejectment of petitioners being consistent with law and jurisprudence can only be affirmed. The alleged consignation of the P20.00 monthly rental to a bank account in respondent's name cannot save the day for the petitioners simply because of the absence of any contractual basis for their claim to rightful possession of the subject property. Consignation based on Article 1256 of the Civil Code indispensably requires a creditor-debtor relationship between the parties, in the absence of which, the legal effects thereof cannot be availed of.

Article 1256 pertinently provides:

> Art. 1256. If the creditor to whom tender of payment has been made refuses without just cause to accept it, the debtor shall be released from responsibility by the consignation of the thing or sum due.

Unless there is an unjust refusal by a creditor to accept payment from a debtor, Article 1256 cannot apply. In the present case, the possession of the property by the petitioners being by mere tolerance as they failed to establish through competent evidence the existence of any contractual relations between them and the respondent, the latter has no obligation to receive any payment from them. Since respondent is not a creditor to petitioners as far as the alleged P20.00 monthly rental payment is concerned, respondent cannot be compelled to receive such payment even through consignation under Article 1256. The bank deposit made by the petitioners intended as consignation has no legal effect insofar as the respondent is concerned.

Finally, as regards the damages awarded by the MTCC in favor of the respondent, as affirmed by both the RTC and the CA, petitioners failed to present any convincing argument for the Court to modify the same. The facts of the case duly warrant payment by the petitioners to respondent of actual and compensatory damages for depriving the latter of the beneficial use and possession of the property. Also, the unjustified refusal to surrender possession of the property by the petitioners who were fully aware that they cannot present any competent evidence before the court to prove their claim to rightful possession as against the true owners is a valid legal basis to award attorney's fees as damages, as well as litigation expenses and cost of suit.

Rule 70 of the Rules of Court relevantly reads:

> Sec. 17. Judgment. - If after trial the court finds that the allegations of the complaint are true, it shall render judgment in favor of the plaintiff for the restitution of the premises, the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, attorney's fees and costs. If it finds that said allegations are not true, it shall render judgment for the defendant to recover his costs. If a counterclaim is established, the court shall render judgment for the sum found in arrears from either party and award costs as justice requires. (Emphasis supplied).

There is no doubt whatsoever that it is within the MTCC's competence and jurisdiction to award attorney's fees and costs in an ejectment case. After thoroughly considering petitioners' arguments in this respect, the Court cannot find any strong and compelling reason to disturb the unanimous ruling of the three (3) courts below on the matter of damages.

WHEREFORE, the petition is hereby DENIED for lack of merit, with costs against petitioners.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.
Puno, (Chairperson), on leave.

[1]Penned by then Associate Justice Presbitero J. Velasco, Jr. (now a member of this Court) with then Associate Justice Fermin Martin, Jr. (now ret.) and Associate Justice Eloy R. Bello, Jr. (now ret.), concurring; Rollo, pp. 21-27.

[2] Rollo, pp. 34-35.

[3] Decision, p. 5; Rollo, p. 25.

[4]G.R. No. 138955, Oct. 29, 2002; 391 SCRA 351 [2002].

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