FELIPE REGIS, JR., PETITIONER, VS. THE HON. COURT OF APPEALS AND AGAPITO GARCIA, RESPONDENTS.

G.R. NO. 153914. July 31, 2007

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-153914/

NACHURA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court assailing the Decision[1] of the Court of Appeals, dated September 13, 2001, and the Resolution[2] dated February 15, 2002 in CA-G.R. SP No. 57003.

The Facts

The present petition stems from two separate ejectment cases involving the same parties, albeit at different times, in two different branches of the Municipal Trial Court in Cities (MTCC) of Iligan City.

The first, Civil Case No. II-236, entitled "Felipe Regis and Genoviva Garcia v. Agapito Garcia," was a complaint for forcible entry, filed with the MTCC, Branch II, Iligan City. The plaintiffs are the parents of the petitioner (Regis) herein. On March 13, 1989, the MTCC rendered a Decision[3] dismissing the case. The pertinent portions of the decision read:

> [T]he Court, finds that the defendant [Garcia] is a possessor and owner in fee simple of a residential lot along the former shorelines of Cabili Avenue, Iligan City. That [the] defendant [Garcia] possessed a parcel of land of about 200 square meters since 1947 (sic). x x x Sometime in 1973, the government[,] upon seeing the area to have been developed and reclaimed from the sea, it surveyed the area and opened it for disposition and alienation under the Miscellaneous Sales System. Defendant [Garcia] filed his Miscellaneous Sales Application for the entire 200 sq. meters he reclaimed [which] was eventually awarded to him. That sometime in the year 1970[,] a certain Delvo had filed an adverse claim over the same property in issue but, the Regional Trial Court and the Court of Appeals ruled in favor of the defendant [Garcia] herein over said parcel wherein the claim of herein plaintiff [Regis] is part.
>
> x x x x
>
> Further, defendant's [Garcia] possession of this land in issue started before 1950 while the plaintiff enter[ed] the scene later, having purchased the rights of the defendant's [Garcia] father over the portion, defendant's [Garcia] father [had] occupied and claimed [as his] own.
>
> Finally, the Court, opined that the issue here could be settled by determining the true boundaries of each lot claimed by party-litigants. But, even if this Court would do so yet, the action of this Court, would [be] an effort in futility[,] the matter of ownership on the entire portion of land claimed by defendant [Garcia] having been passed over (sic) by the Regional Trial Court and lately was awarded by the government to defendant [Garcia] under Miscellaneous Sales Application.
>
> WHEREFORE, premises considered, the Court hereby opine[s] that plaintiff [Regis] had failed to prove any cause of action against defendant [Garcia], hence, the Court hereby order[s] the Dismissal of the case for [having] no cause of action.

SO ORDERED.

No appeal was taken from this decision.

The second case, entitled "Agapito Garcia v. Felipe Regis, Junior and the Members of His Family," docketed as Civil Case No. 1-429 in the MTCC, Branch 01, Iligan City, was for ejectment, filed by Agapito Garcia (Garcia), respondent herein. In its Decision[4] dated February 11, 1999, the MTCC dismissed the complaint for failure of Garcia to prove his prior physical possession of the property in question. The lower court went on to say that the evidence presented by Garcia proved only his right of possession, not his prior physical possession of the contested property which is the core issue in forcible entry cases.

Garcia appealed the February 11, 1999 Decision of the MTCC to Regional Trial Court (RTC), Branch 03, Iligan City, docketed as Civil Case No. 4607. On September 2, 1999, the RTC issued a Decision[5] reversing the decision of the trial court and ordering Regis and the members of his family to remove their structures and to vacate the property under dispute. The RTC took heed of the earlier Decision of the MTCC in Civil Case No. II-236 that had become final and executory, and declared:

> On the findings of the lower court, it would appear that the herein plaintiff-appellant [Garcia] took possession, ahead of anybody else, including the defendant-appellee [Regis] of the 200 square meters, wherein the disputed area of 40 square meters is merely a portion.
>
> Even granting arguendo that the appellee [Regis] was in possession of the property before the alleged forcible entry was filed in 1989, the appellant [Garcia] was already there long before the intrusion of the 40 square meters which is a portion of the whole 200 square meters, earlier applied for by the appellant [Garcia].
>
> x x x x
>
> In the case at bar, and in addition to the findings of the lower court in Civil Case No. II-236, appellant [Garcia] took possession of the property in 1946 (Exhibit "A") and introduced improvements thereon. To strengthen his hold on the property he filed a Sales Application (Exhibit "D") in 1973 and declared it for taxation purposes (Exhibit "C") in 1973.
>
> On the other hand, the documentary evidence shown by the appellee [Regis], i.e., Declaration of Real Property (Exhibits "3-B" and "3-C") were secured only very recently or in October 1993 and June 1986[,] respectively. The two (2) tax receipts were issued only on January 7, 1998.
>
> Evidently the appellant [Garcia] has indeed occupied the property way ahead of the parents of the appellee [Regis] and much earlier than the appellee [Regis] himself.
>
> In sum, the Court believes that plaintiff-appellant [Garcia] is the rightful possessor of the lot in dispute and that defendant-appellee [Regis] being an intruder and deforciant should be ordered to restore the lot to the plaintiff-appellant [Garcia].

Aggrieved, Regis filed an appeal with the Court of Appeals (CA) docketed as CA-G.R. SP No. 57003, praying for the reinstatement in toto of the MTCC Decision dated February 11, 1999 in Civil Case No. 1-429. On September 13, 2001, the CA rendered a Decision,[6] the fallo of which reads:

> WHEREFORE, the Decision of the Regional Trial Court of Iligan City, Branch 3 in Civil Case No. 4607, reversing the judgment in Civil Case No 1-236 (sic) rendered by the Municipal Trial Court in Cities, Branch 1, Iligan City, and ordering the petitioner [Regis] to remove the structures and to vacate the property in dispute is hereby AFFIRMED in toto.

A motion for reconsideration was filed by Regis but the same was denied by the CA in a Resolution[7] dated February 15, 2002.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The Issues to be Resolved

On May 27, 2002, Regis filed a Petition[8] for certiorari before this Court contending, as follows:

> I
>
> THE COURT OF APPEALS HAS NO JURISDICTION IN DECIDING CA-G.R. SP NO. 57003, AN APPEALED FORCIBLE ENTRY CASE (ILIGAN CITY MTCC 1-429) AS AN ACCION PUBLICIANA, AND SAID COURT ALSO VIOLATED PETITIONER'S CONSTITUTIONAL RIGHT (Pages 6-11) TO
>
> (a) Due Process (Pages 8 to 9) and,
> (b) To a day in Court (Pages 10-11)
>
> II
>
> [THE CA ERRED] IN HOLDING THAT PRIVATE RESPONDENT GARCIA WAS IN "PRIOR POSSESSION" OF THE 40 SQUARE METER LOT IN QUESTION SINCE HIS FATHER, DEMETRIO GARCIA OCCUPIED IT IN 1946 AND PETITIONER FELIPE REGIS JR. AND HIS PARENTS TOOK POSSESSION ONLY IN 1962 (Pages 11 to 19)[9]

The Ruling of the Court

The petition is devoid of merit.

I

At the outset, we reiterate that the special civil action for certiorari cannot be availed of even if it is based upon lack of jurisdiction or grave abuse of discretion when the remedy of appeal is available.[10] Certiorari is proper only if there is no appeal, or when there is no plain, speedy, and adequate remedy in the ordinary course of law.[11] Regis cannot invoke the extraordinary writ of certiorari as a substitute for the lost remedy of appeal.

Regis filed the present petition for certiorari on May 22, 2002, or more than fifteen (15) days from his receipt of the CA's denial of the motion for reconsideration on March 26, 2002. Although filed within the period for filing a petition for certiorari under Rule 65, the arguments presented by Regis show that his recourse should have been an appeal via a petition for review on certiorari under Rule 45 of the Rules of Court. To avoid this procedural pitfall, Regis invokes lack of jurisdiction of the court a quo as basis for filing the petition. However, upon review of the arguments he has marshaled, it is apparent that what he is really questioning is whether or not an action for forcible entry may be treated as an accion publiciana, which is a question of law. The pertinent portion of the CA Decision that is in issue reads:

> Before finally concluding this matter, the records of this case clearly show the compliance by respondent [Garcia] with the requisites, as aforementioned, in commencing the ejectment proceedings before the court a quo. In this regard, We take note of the MTCC's observations to be quite significant:
> "(W)hether or not defendant's (sic) [Regis] have the right to occupy the said area, this issue is irrelevant to ejectment cases considering that this is now a question of who has a better right of possession, hence a proper case of accion publiciana. To the mind of the court, plaintiff's [Garcia] remedy in the instant case is to file an action for the recovery of ownership or accion reinvidicatoria [which also includes the recovery of possession][.]

Granting ex argumenti that the previously quoted comment made by the court a quo is correct, there is no reason for this Court to dismiss the present case based on the alleged error of the respondent [Garcia] in not filing an accion publiciana. To do so would only result in a senseless re-litigation of the same matter and the issues that is now before Us. As an appellate court, We can rule on the same issues based on the same set of evidence had it

been an accion publiciana the respondent [Garcia] commenced before the proper RTC, and the results would have been no different.[12]

A cursory reading of the CA Decision would reveal that it did not decide the forcible entry case as accion publiciana. The CA only commented on the observation of the RTC that it would have been better if Garcia filed an accion publiciana instead of a complaint for forcible entry. This is a legitimate comment of the appellate court on the discussion in the RTC decision.

A complaint for forcible entry may be brought within a year from unlawful dispossession before a municipal trial court in a summary proceeding.[13] This summary action is for the recovery of physical possession only. Title or ownership over the property is not in issue. However, when the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the same, then the issue of ownership shall be resolved in order to decide the issue of possession.[14] The judgment rendered shall be conclusive with respect to possession only, shall not bind the title or affect the ownership of the property, and shall not bar an action between the same parties respecting title to the land or building.[15]

In an action for forcible entry, whether or not the person occupying the property has the right to occupy the same is not important. What is essential is that the party filing the case be able to prove that his peaceful physical possession of the property was arbitrarily intruded by another. The rationale for this remedy is that a person who is in peaceful possession of property must not be ejected therefrom by force, intimidation, threat, strategy, or stealth. A person who believes that he has a right of possession over a certain property that is in the hands of another must not take the law into his own hands. He cannot just barge in and take the property that is actually occupied by another.

A year after the unlawful dispossession of property, the aggrieved party may file an accion publiciana. The better right to possession, as distinguished from the right to physical possession, is litigated in this plenary action[16] as an ordinary civil proceeding in the RTC.

Recovery of ownership, which includes the right to possession over real property, can be commenced through an accion reivindicatoria. The action is filed in the RTC.

On the issue of whether or not an action for forcible entry can be treated as accion publiciana, we rule in the negative. Forcible entry is distinct from accion publiciana. First, forcible entry should be filed within one year from the unlawful dispossession of the real property, while accion publiciana is filed a year after the unlawful dispossession of the real property. Second, forcible entry is concerned with the issue of the right to the physical possession of the real property; in accion publiciana, what is subject of litigation is the better right to possession over the real property. Third, an action for forcible entry is filed in the municipal trial court and is a summary action, while accion publiciana is a plenary action in the RTC.[17]

In the instant case, the CA acted within its jurisdiction in issuing the assailed judgment. To repeat, the CA did not treat the forcible entry case as an accion publiciana. What was litigated before the appellate court was the very same case for forcible entry initiated at the MTCC. Not being a new case, petitioner cannot claim that he was deprived of due process or denied his day in court. Furthermore, Regis, after appealing his case to the CA and having taken part in the proceedings therein, is estopped from assailing the jurisdiction of such tribunal after receiving an unfavorable judgment.

II

The issue of who had prior possession over the disputed property that is located at Del Mar St., Iligan City can no longer be reviewed by this Court. As a rule, the findings of fact of the trial court, especially when adopted and affirmed by the CA, are final and conclusive, and may not be reviewed on appeal by this Court. This Court is not a trier of facts, and generally does not weigh anew the evidence already passed upon by the CA. Absent any showing that some facts of certain weight and substance were overlooked, which, if considered, would affect the outcome of the case, the Court, as in this case, will uphold the findings of the RTC and the CA.[18]

The Court takes judicial notice of the Decision of MTCC, Branch II, Iligan City, dated March 13, 1989. This decision of the MTCC was never appealed and thus, became final and conclusive as to the parties therein. The family, relatives, and other privies of the parties in ejectment cases are as much bound by the judgment as the party from whom they derive their possession.[19] In this case, Regis is barred by res judicata from questioning the MTCC finding that Garcia had prior possession. Thus, the following findings of fact of the MTCC in Civil Case No. II-236, the RTC in Civil Case No. 4607, and of the CA in CA-G.R. SP No. 57003, are deemed conclusive: a) Garcia was already the owner of the 200-square-meter lot when his Miscellaneous Sales Application was favorably granted; b) The 40-square-meter lot that is contested in this case is embraced within the said 200-square-meter lot owned by Garcia; and c) Garcia's possession of the contested property dates back to 1946, while the possession of Regis goes back only to 1962.
WHEREFORE, in view of all the foregoing, the Decision of the Court of Appeals, dated September 13, 2001, and the Resolution dated February 15, 2002, in CA-G.R. SP No. 57003, are hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Bernardo P. Abesamis, with Associate Justices Godardo A. Jacinto and Eliezer R. De Los Santos, concurring; rollo, pp. 25-34.

[2] Rollo, p. 56.

[3] Penned by Judge Ayonan M. Aguam; id. at 208-209.

[4] Penned by Judge Albert B. Abragan; id. at 210- 214.

[5] Penned by Acting Presiding Judge Moslemen T. Macarambon, entitled "Agapito Garcia v. Felipe Regis Junior and the Members of His Family," id. at 215-219.

[6] Rollo, pp. 25-34.

[7] Id. at 56.

[8] Id. at 3-24.

[9] Id. at 3.

[10] Madrigal Transport, Inc. v. Lapanday Holdings Corporation, G.R. No. 156067, August 11, 2004, 436 SCRA 123, 127.

[11] RULES OF COURT, Rule 65, Section 1.

[12] Rollo, p. 33.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[13] Bishop of Cebu v. Mangaron, 6 Phil. 286, 290-291 (1906).

[14] RULES OF COURT, Rule 70, Section 16.

[15] RULES OF COURT, Rule 70, Section 18.

[16] Id.

[17] Bishop of Cebu v. Mangaron, supra note 13, at 290-291.

[18] Hko Ah Pao v. Ting, G.R. No. 153476, September 27, 2006, 503 SCRA 551, 562.

[19] Ariem v. Hon. de los Angeles, etc., et al., 151 Phil. 440, 445 (1973).

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

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.