

REY CARLO A. RIVERA AND GLADYS ABAGA RIVERA, PETITIONERS, VS. VIRGILIO RIVERA, RESPONDENT.

G.R. No. 154203. July 08, 2003

Ponente: PUNO, J.

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PUNO, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioners assail the March 21, 2002 Decision of the Court of Appeals, in connection with an ejectment case, docketed as Civil Case No. 7529, ordering them to vacate the disputed premises and pay rentals.

The subject of the dispute is a 228-square meter lot with a two-storey duplex house located in Pasig City. The property was originally owned by spouses Remigio Rivera, Sr. and Consuelo Rivera. The spouses had eleven (11) children, two of whom were Remigio, Jr. (petitioners' father) and respondent Virgilio Rivera.

In 1974, when the spouses migrated to the United States, they asked their son Remigio, Jr. and his children (two of whom are petitioners Rey Carlo and Gladys Rivera) to occupy one unit of the duplex house without payment of rentals. In 1985, respondent, another son of the spouses, moved into the other unit of the duplex house and likewise occupied it gratuitously.

After Remigio, Sr. died in 1992, his widow Consuelo and their eleven (11) children executed an extrajudicial settlement^[1] where the children voluntarily waived their hereditary rights to four (4) real properties owned by their parents, including the lot with the duplex house, in favor of their mother Consuelo.

In 1993, Remigio, Jr. together with his three (3) sons migrated to the United States, leaving behind petitioners who continued to reside in one of the units of the duplex house. Respondent likewise migrated to the U.S.

On April 6, 1999, Consuelo sold the duplex house and lot to respondent for five hundred thousand pesos (P500,000.00).^[2] At the time of the sale, both Consuelo and respondent were residing in the same house in San Jose, California. In the Deed of Sale, Consuelo and respondent were represented by respondent's daughters Ma. Theresa R. Ferreria and Ma. Dolores A. Rivera. Title to the property was subsequently transferred in the name of respondent.

Respondent, represented by his daughter Dolores, asked petitioners to sign a lease contract over the unit of the duplex house they were occupying, covering the period from April 30, 1999 to June 30, 1999, with a monthly rental of P6,000.00.

As the petitioners refused to sign the lease contract or vacate the premises, respondent,^[3] through his daughter Dolores, filed an unlawful detainer case (Civil Case No. 7529) against them before the Metropolitan Trial Court (MeTC) of Pasig City. In the complaint,^[4] it was alleged: that respondent is the registered owner of the duplex house; that he merely tolerated petitioners' occupancy of one of the units thereof, conditioned upon the execution of the lease contract between the parties; that petitioners initially agreed thereto as they claimed they would remain in the unit only for a few more months; and that after respondent caused the preparation of the lease

contract, petitioners refused to sign it or vacate the property.

In their Answer with counterclaim,[5] petitioners alleged that the deed of sale between Consuelo and Virgilio Rivera was fictitious. They claimed that their occupancy of the premises was not by mere tolerance as they have a right to occupy it as co-owners. Hence, they averred that they could not be compelled to pay rentals for the use of the property. Petitioners likewise raised the affirmative defense that respondent had no cause of action against them as no title was conferred to him because: the deed of sale was fictitious; the subject property was part of the conjugal property of Remigio, Sr. and Consuelo and after the former's death, all the compulsory heirs executed an extrajudicial settlement transferring all the conjugal properties to Consuelo out of love and respect for her; Consuelo and all the compulsory heirs have migrated to the States; Consuelo was living with respondent in the States; Consuelo and respondent hid from the other heirs the transfer of the subject property to respondent; the deed of sale was executed in the Philippines through a special power of attorney granted by respondent to his daughters, Ma. Theresa Rivera-Ferreria and Ma. Dolores Rivera; assuming that the sale was legitimate, Consuelo did not notify petitioners thereof, with deliberate intent and bad faith to disinherit her grandchildren, petitioners herein, in violation of their right of first refusal, having resided in the premises since birth, or for more than 20 years; the P500,000 consideration for the sale was clearly inadequate; assuming that the sale was valid, it nonetheless deprived the other compulsory heirs of their share over the subject property; and with the attendant defects in the sale of the property, no right or title was transferred to respondent.

The trial court rendered judgment in the ejectment case in favor of respondent, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against defendants Rey Carlo Rivera and Gladys Rivera in the manner following:

- Ordering the defendants and all persons claiming rights under them to immediately vacate the subject premises unlawfully withheld from the plaintiff;
- Ordering the defendants to pay plaintiff the sum of P5,000.00 as and by way of unpaid rentals from April to September 1999, without prejudice to collecting the reasonable compensation for occupancy that may be forthcoming until defendants vacate the premises;
- Ordering defendants to pay plaintiff the sum of P10,000.00 as and by way of attorney's fees; and
- Ordering the defendants to pay the costs of suit.

SO ORDERED.

Petitioners appealed the decision to the Regional Trial Court (RTC) on the grounds that: (a) the respondent had no right over the property as he did not have actual or prior physical possession thereof; (b) the non-existent lease contract was not binding between the parties; and (c) respondent's title was not indefeasible.

On March 16, 2001, the RTC reversed the decision of the MeTC and ruled in favor of the petitioners. It held that there was no valid contract of lease between the parties and petitioners occupied the subject property in the concept of a co-owner.[6]

On appeal, the Court of Appeals, in its Decision dated March 21, 2002, reversed the RTC's decision and reinstated the original decision of the MeTC.[7] It held that as registered owner of the land, respondent is entitled to possession thereof.

Hence, this petition for review with petitioners raising the following issues: (a) whether petitioners, being in actual physical possession of the property since 1974, are entitled to continue in possession of the premises until the issue of ownership thereof is resolved by a court of competent jurisdiction; (b) whether Civil Case No. 7529,

the ejectment case, is beyond the jurisdiction of the municipal trial court; (c) whether respondent holds the subject property in trust for the legitimate heirs at the time the ejectment case was filed; and (d) whether petitioners, who are in actual physical possession of the premises, exercised the right of a co-owner in representation of their father, Remigio Rivera, Jr.

We find no merit in the petition.

We cannot sustain petitioners' contention that as they had actual, physical possession of the property as co-owners, in representation of their father Remigio, Jr., they are entitled to remain in the premises. In an unlawful detainer case, prior physical possession by the plaintiff is not necessary. It is enough that he shows that he has a better right of possession. Actual, prior physical possession of a property by a party is indispensable only in forcible entry cases, not in unlawful detainer cases where the defendant is necessarily in prior lawful possession of the property but his possession eventually becomes unlawful upon termination or expiration of his right to possess.[8] Thus, the fact that petitioners were in prior physical possession of the duplex unit does not automatically entitle them to continue in said possession and does not give them a better right to the property.

Petitioners claim that the unlawful detainer suit should have been dismissed as the respondent relied only on his title to the property in bringing the action. They contend that respondent's assertion of ownership in the unlawful detainer case removed it from the jurisdiction of the MeTC. Moreover, they insist that their possession of the property was not merely by tolerance of the original owners and later on by the respondent as they assert their father's right as co-owner of the property.

Again, petitioners' arguments must fail. It is well-settled that 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 action for ejectment may be filed against him.[9] In the case at bar, respondent's allegations in his complaint specifically show that petitioners occupied the subject unit only with the express permission of the spouses as the original owners. Thus, when title to the property passed on to respondent by virtue of a contract of sale, petitioners' refusal to sign the lease contract prepared by the respondent for their use of the duplex unit rendered their continued occupation thereof unlawful.

Although petitioners impugned the validity of respondent's title over the property as they claimed to have the right to occupy it as co-owner, this allegation did not divest the MeTC of jurisdiction over the unlawful detainer suit. It is settled that the sole issue in an ejectment case is physical or material possession. Neither a claim of juridical possession nor an assertion of ownership by the defendant can deprive the court of jurisdiction over the disputed property.[10] Courts in ejectment cases are mandated to decide questions of ownership whenever it is necessary to decide the question of possession. They cannot be divested of jurisdiction over ejectment cases just because the defendants assert ownership over the litigated property.[11]

The underlying reason for this ruling is to prevent the defendant from trifling with the summary nature of an ejectment suit by the simple expedient of asserting ownership over the disputed property.[12]

In the case at bar, the lower court properly adjudicated ownership of the property to respondent in the unlawful detainer case on the basis of his title thereto. Full ownership of the subject property was surrendered to Consuelo Rivera upon the death of Remigio, Sr. through an extrajudicial partition signed by all the compulsory heirs. Thus, Consuelo had every right to dispose of the property as she deemed fit. Moreover, the lower court correctly ruled that petitioners had no hereditary rights over the property in representation or substitution of their father as the latter was still alive.

We stress, however, that this adjudication, is only an initial determination of ownership for the purpose of settling

the issue of possession, the issue of ownership being inseparably linked thereto. The lower court's adjudication of ownership in the ejectment case is merely provisional and would not bar or prejudice an action between the same parties involving title to the property.[13]

Lastly, respondent rightfully omitted Remigio, Jr. as party in the illegal detainer case as he was not the one in actual, physical possession of the subject property, but petitioners. While petitioners insist that the TCT issued to respondent shows that the property was part of the inheritance left by Remigio, Sr. which gives them the right to assert and protect the interest of their father Remigio, Jr. over his share in the property, this issue, coupled with the alleged fictitious or fraudulent sale of the property to respondent, must be tried by petitioners in a separate proceeding only for that purpose as it is settled that an unlawful detainer case resolves only the issue of physical or material possession.[14]

IN VIEW WHEREOF, the petition is DENIED. The impugned decision of the Court of Appeals, dated March 21, 2002, is AFFIRMED. Costs against petitioners.

SO ORDERED.

Panganiban, Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo at 55-60.

[2] Deed of Sale, Rollo at 61-62.

[3] At the time the ejectment case was filed, respondent was still residing in San Jose, California; See ejectment complaint, Rollo at 40.

[4] Rollo at 40-43.

[5] CA Rollo at 26-31.

[6] Rollo at 70-75.

[7] Id. at 29-36. Penned by then Associate Justice Remedios A. Salazar-Fernando and concurred in by then Associate Justice Romeo J. Callejo, Sr. and Associate Justice Perlita J. Tria-Tirona.

[8] Rodil Enterprises, Inc. vs. Court of Appeals, 370 SCRA 79 (2001).

[9] Pengson vs. Ocampo, Jr., 360 SCRA 420 (2001).

[10] Diu vs. Ibanan, 322 SCRA 452 (2000).

[11] Heirs of Placido Miranda vs. Court of Appeals, 255 SCRA 368 (1996).

[12] Corpus vs. Court of Appeals, 274 SCRA 275 (1997).

[13] Hilario vs. Court of Appeals, 260 SCRA 420 (1996).

[14] Pengson vs. Ocampo, Jr., supra.

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