CRISPINA UNIDA, MARRIED TO ANTONIO MABALOT, NANCY UNIDA, MARRIED TO EUGENIO UNIDA, EDWIN DAMO, ANDREW MABALOT, RICARDO DAMO AND JOCELYN DAMO, PETITIONERS, VS. HEIRS OF AMBROSIO ...

G.R. NO. 155432. June 09, 2005

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-155432/

CARPIO MORALES, J.:

The present petition for review on certiorari originated from a complaint for unlawful detainer filed by respondent, "Heirs of Ambrocio Urban represented by Lucio Cabaddu," against the defendants-herein petitioners Crispina Unida et al. at the Municipal Trial Court (MTC) of Camalaniugan, Cagayan.

Since the main issue raised is one of jurisdiction over the subject matter, a recital of the pertinent allegations of the complaint is in order.

In its March 3, 1998 Complaint, the plaintiff-herein respondent who claims to be the owner of the property, which had been subdivided into Lots 298, 299, and 616, subject of the case alleged that:

> x x x
>
> - About ten (10) years ago, more or less, without the knowledge or consent of the owners, the defendants[-herein petitioners], without any legal right whatsoever, entered the premises of the land which is the subject of this suit and cultivated the same as their own, not giving any share to the owners;
>
> - Because the location of the land was then infested by the New People's Army at the time of the instrusion of the defendants, the owners did nothing but to tolerate their (defendants) stay and cultivation over the land in question;
>
> x x x[1] (Underscoring supplied)

In their Answer, the defendants-herein petitioners denied, among other things, having any knowledge or information sufficient to form a belief regarding the authority of Lucio Cabaddu to represent the plaintiff and concluded that "he has no right and/or personality to represent the alleged [H]eirs"-plaintiff. On the merits, petitioners asserted that petitioner Crispina Unida has possessed Lots 298 and 616, and that petitioner Nancy Unida has possessed Lot 299, both in the concept of owner, personally and through their predecessors-in-interest, since time immemorial, and that the title to the property subject of the complaint, OCT No. P-48306, was fraudulently obtained by respondents.[2]

By Decision[3] of June 7, 1999, the MTC, resolving in the affirmative the issues of 1) whether the plaintiff "impliedly tolerated the defendants' act of cultivating the land," and 2) whether the plaintiff is the "lawful owner of the land," accordingly rendered judgment against the defendants-herein petitioners.

On appeal to the Regional Trial Court (RTC), the defendants-herein petitioners raised the following assignment of

errors:

> - THE LOWER COURT ERRED IN NOT DISMISSING THE CASE FOR THERE IS ABSOLUTELY NO EVIDENCE ON RECORD SHOWING THE AUTHORITY OF ALLEGED PLAINTIFF LUCIO CABADDU TO INSTITUTE THE PRESENT SUIT;
>
> - THE LOWER COURT ERRED IN ORDERING THE EJECTMENT OF THE DEFENDANTS ALTHOUGH THEY ARE IN ACTUAL, OPEN, PUBLIC AND NOTORIOUS POSSESSION OF THE LOTS IN DISPUTE UNDER BONAFIDE CLAIM OF OWNERSHIP EVEN BEFORE THE SECOND WORLD WAR HAVING INHERITED SAID LAND FROM THEIR FATHER LUIS UNIDA.[4] (Underscoring supplied)

By Decision[5] dated October 26, 1999, Branch 10 of the RTC of Cagayan reversed the MTC decision, it holding that although Lucio Cabaddu was given a Special Power of Attorney (SPA) subsequent to the filing of the complaint, the SPA did not contain a specific authorization for him to institute the complaint.

In any event, the RTC held that the complaint was dismissible for while in its title Lucio Cabaddu appeared as the representative of the plaintiff-Heirs of Ambrocio Urban, paragraph 1 of the complaint alleged as follows:

> - Plaintiff[,] of legal age, married to Leticia Urban and a resident of Dugo, Camalaniugan, Cagayan, is the Authorized representative of the heirs of Ambrocio Urban,[6]

thus clearly showing that he "instituted it as plaintiff in behalf of the heirs," hence, "not allowed" as he is not the real party in interest.

On the substantive issue, the RTC held that since the complaint itself asserted that petitioners' entry into the property was unlawful from the very beginning, respondents' alleged "toleration" thereof cannot be considered as toleration in contemplation of law in unlawful detainer cases, hence, the action for unlawful detainer was improper. Neither was forcible entry the proper remedy, added the RTC, as the entry of petitioners was not by "means of force, violence, threats, intimidation, stealth or strategy." The RTC suggested though that the remedy of the plaintiff-herein respondent was to file an accion publiciana or reivindicatoria before the proper RTC.

On appeal of respondent to the CA, it assigned two errors of the RTC, to wit:

> - THE APPELLATE COURT ERRED IN FINDING THAT PETITIONERS' REPRESENTATIVE LUCIO CABADDU LACKS THE PERSONALITY TO SUE DESPITE HIS CONSTITUTION AS AN ATTORNEY-IN-FACT BY PETITIONERS THROUGH A VALIDLY EXECUTED SPECIAL POWER OF ATTORNEY.
>
> - THE APPELLATE COURT ERRED IN REVERSING THE DECISION OF THE MUNICIPAL TRIAL COURT AND DISMISSING THE COMPLAINT ON THE GROUND THAT THE MODE OF ACTION (UNLAWFUL DETAINER) TAKEN BY THE PETITIONER IS INAPPROPRIATE DESPITE THE ALLEGATIONS IN THE COMPLAINT THAT RESPONDENTS POSSESSION OVER THE LAND IN DISPUTE WAS ONLY UPON THE MERE TOLERANCE OF THE PETITIONERS. [7] (Underscoring supplied)

By Decision promulgated on September 19, 2001,[8] the Court of Appeals reversed the decision of the RTC and reinstated that of the MTC.

In reversing the RTC decision, the appellate court held that the subsequent execution of an SPA in favor of Lucio Cabaddu cured the defect in the filing of the complaint. And the appellate court "agree[d] with the Municipal Trial Court that [the plaintiff-herein respondent] had established [its] right of possession as owners of the [property]." Furthermore, the appellate court held that "an allegation that the defendant is unlawfully withholding

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

possession from the plaintiff is deemed sufficient for one alleging that the withholding of possession or the refusal to vacate is unlawful, without necessarily employing the terminology of the law."

Hence, the present Petition for Review with the following assignments of errors:

> a) THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT THE SUBSEQUENT SPECIAL POWER OF ATTORNEY CURES THE DEFECT IN THE COMPLAINT BECAUSE SUCH CONCLUSION WAS GROUNDED ENTIRELY ON SPECULATION, THE INFERENCE MADE IS MANIFESTLY MISTAKEN, AND THE JUDGMENT WAS BASED ON MISAPPREHENSION OF FACTS.[9]
>
> b) THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT THE TRIAL COURT HAS NO JURISDICTION OVER THE UNLAWFUL DETAINER CASE BECAUSE THE DEFENDANTS CRISPINA UNIDA AND HUSBAND ANTONIO MABALOT AND EUGENIO UNIDA MARRIED TO NANCY UNIDA ARE THE OWNERS OF THE LAND IN DISPUTE HAVING POSSESSED THE SAME SINCE PRE-WAR TIME AND INHERITED SAID LAND FROM THEIR FATHER LUIS UNIDA WHO OWNS SEVENTY TWO (72) HECTARES BEFORE THE SECOND WORLD WAR.[10] (Underscoring supplied)

As stated early on, the main issue, that reflected in herein petitioners' second assigned error, is one of jurisdiction over the complaint of herein respondent.

From the earlier quoted material paragraphs-allegations of the complaint, petitioners' entry into the property was, by respondent's own information, unlawful from the very beginning. Respondent, nonetheless, claimed that it merely tolerated petitioners' presence in the property. Clearly, an unlawful detainer action does not lie.

For to justify an action for unlawful detainer,

> the permission or tolerance must have been present at the beginning of the possession. Otherwise, if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy. Sarona v. Villegas elucidates thus:
> "A close assessment of the law and the concept of the word 'tolerance' confirms our view heretofore expressed that such tolerance must be present right from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer not of forcible entry..."[11] (Emphasis and underscoring supplied)

As correctly held then by the RTC, the case cannot be considered as an unlawful detainer case, the "tolerance" claimed by respondents not being that contemplated by law in unlawful detainer cases; neither can the case be considered as one for forcible entry because the entry of petitioners was not alleged to have been by means of force, intimidation, threats, stealth or strategy.

Since the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer or forcible entry, the MTC had no jurisdiction over the case.[12] It is in this light that this Court finds that the RTC correctly found that the MTC had no jurisdiction over the complaint. Parenthetically, it was error for the RTC to find the complaint dismissible also on the ground that Lucio Cabaddu was not the real party in interest. That paragraph 1 of the complaint alleged that "plaintiff [is] of legal age, married to Leticia Urban . . . is the Authorized representative of the heirs of Ambrocio Urban" did not modify the name of the plaintiff appearing in the title of the complaint. In other words, that the plaintiff appearing in the title was worded as "Heirs of Ambrocio Urban represented by Lucio Cabaddu" complied with Section 3 of Rule 3 of the Rules of Court which reads:

> SEC. 3. Representative as parties. – Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a

> guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal. (Underscoring supplied)

The foregoing discussion renders it unnecessary to still rule on the first issue of whether the Special Power of Attorney presented by Lucio Cabaddu, the representative of respondent, may be validly considered, it not having been formally offered in evidence before the MTC. Suffice it to state that, as a rule, documents presented as proof of a fact in issue must be offered in evidence before a trial court.[13]

A final note. Since the RTC found that the MTC had no jurisdiction over the case, it should have followed the mandate of Sec. 8, Rule 40, which provides:

> Sec. 8. Appeal from orders dismissing case without trial; lack of jurisdiction. – If an appeal is taken from an order of the lower court dismissing the case without a trial on the merits, the Regional Trial Court may affirm or reverse it, as the case may be. In case of affirmance and the ground of dismissal is lack of jurisdiction over the subject matter, the Regional Trial Court, if it has jurisdiction thereover, shall try the case on the merits as if the case was originally filed with it. In case of reversal, the case shall be remanded for further proceedings.
>
> If the case was tried on the merits by the lower court without jurisdiction over the subject matter, the Regional Trial Court on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with the preceding section, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice. (Emphasis and underscoring supplied)

WHEREFORE, the petition is GRANTED. The assailed decision of the Court of Appeals is REVERSED and SET ASIDE.

Let the records of the case be remanded to Branch 10 of the Regional Trial Court of Cagayan which is hereby directed to take action on it in accordance with the above-quoted provision of Sec. 8 of Rule 40 of the Rules of Court.

SO ORDERED.

Panagniban, (Chairperson), Corona, and Garcia, JJ., concur.

---

[1] CA Rollo at 16.

[2] Rollo at 33-34.

[3] Id. at 38-42.

[4] CA Rollo at 39.

[5] Rollo 52-57.

[6] CA Rollo at 15.

[7] Id. at 90.

[8] Rollo at 73-81.

[9] Id. at 17.

[10] Id. at 19.

[11] Ten Forty Realty and Development Corp. v. Cruz, 410 SCRA 484, 490 (2003).

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[12] Heirs of Demetrio Melchor v. Julio Melchor, 415 SCRA 726, 734 (2003).

[13] Section 34 of Rule 132 provides:

The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

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