

CESAR SAMPAYAN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, CRISPULO VASQUEZ AND FLORENCIA VASQUEZ GILSANO, RESPONDENTS.

G.R. NO. 156360. January 14, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

In this verified petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Cesar Sampayan seeks the annulment and setting aside of the following issuances of the Court of Appeals in CA-G.R. SP No. 43557, to wit:

1. Decision dated May 16, 2002, denying his petition for review and affirming an earlier decision of the Regional Trial Court at Agusan del Sur, Branch VII, which in turn reversed on appeal a favorable judgment of the Municipal Circuit Trial Court (MCTC) of Bayugan and Sibagat, Agusan del Sur in a forcible entry case thereat commenced against him by herein private respondents, the brother-and-sister Crispulo Vasquez and Florencia Vasquez-Gilsano; and
2. Resolution dated November 7, 2002, which denied his motion for reconsideration.

From the pleadings and memoranda respectively filed by the parties, the Court gathers the following factual antecedents:

On July 8, 1992, in the MCTC of Bayugan and Sibagat, Agusan del Sur, the siblings Crispulo Vasquez and Florencia Vasquez-Gilsano filed complaint for forcible entry against Cesar Sampayan for allegedly having entered and occupied a parcel of land, identified as Lot No. 1959, PLS-225, and built a house thereon without their knowledge, consent or authority, the entry having been supposedly effected through strategy and stealth.

In their complaint, the plaintiffs (now private respondents), substantially alleged that their mother Cristita Quita was the owner and actual possessor of Lot No. 1959; that after their mother's death on January 11, 1984, they became co-owners pro-indiviso and lawful possessors of the same lot; that on June 1, 1992, while they were temporarily absent from the lot in question, defendant Cesar Sampayan, through strategy and stealth, entered the lot and built a house thereon, to their exclusion; and that, despite their repeated demands for Sampayan to vacate the lot and surrender the possession thereof to them, the latter failed and refused to do so.

In his answer, defendant Sampayan denied the material allegations of the complaint and averred that neither the plaintiffs nor their mother have ever been in possession of Lot No. 1959 and that he does not even know plaintiffs' identities or their places of residence. He claimed that he did not enter the subject lot by stealth or strategy because he asked and was given permission therefor by Maria Ybanez, the overseer of the lot's true owners, Mr. and Mrs. Anastacio Terrado who were then temporarily residing in Cebu City for business purposes. In the same answer, Sampayan alleged that the plaintiffs' claim has long prescribed for the reason that the lot in dispute had been possessed and declared for taxation purposes by the spouses Felicisimo Oriol and Concordia

Balida-Oriol in 1960, and that in 1978, the Oriol spouses sold one-half (1/2) of the lot to the spouses Mr. and Mrs. Anastacio Terrado, while the other half, to the couple Manolito Occida and Juliana Sambale-Occida in 1979. Both vendees, so Sampayan averred, have actually possessed the respective portions purchased by them up to the present. He thus prayed for the dismissal of the complaint.

In the ensuing proceedings following the joinder of issues, the plaintiffs, to prove that they have been in actual possession of Lot No. 1959 when defendant Sampayan effected his entry thereto, submitted in evidence the following documents:

1. Tax Declaration No. 3180 in the name of Cristita Quita;
2. Certificate of Death showing the date of death of Cristita Quita on January 11, 1984;
3. Certificate issued by Fermina R. Labonete, Land Management Officer-III of CENRO X-3-E, DENR-X-3-9, Bayugan, Agusan del Sur showing that Lot 1959, PLS-225 is covered by a Miscellaneous Sales Application of Cristita Quita;
4. Affidavit of one Emiliano G. Gatillo to the effect that he was the one who gave the lot in question to Cristita Quita sometime in 1957 and that since then the latter had been occupying the lot;

Plaintiffs also filed a Supplemental Position Paper dated July 13, 1994 for the purpose of showing that Cristita Quita is one of the oppositors in Cadastral Case No. 149. Together with said position paper, they submitted a copy of the Answer/Opposition earlier filed in Cadastral Case No. 149. In said cadastral case, Cristita Quita was claiming Lot 1959, thus her name appeared in the list of oppositors therein.

5. The decision in the said Cadastral Case No. 149 showing that the then Court of First Instance of Agusan del Sur declared Lot No. 1959 as one of the lots subject of the same cadastral case.

For his part, defendant Sampayan, to prove the allegations in his answer, offered in evidence the following:

1. Tax Declaration No. A-11698 in the name of Felicisimo Oriol, which cancels Tax Declaration 8103;
2. Tax Declaration No. GRB-01-930 in the name of Felicisimo Oriol which cancels Tax Declaration No. A-11698;
3. Deed of Absolute Sale of Portion of Land, dated April 30, 1979, executed by Jesus Oriol for and in behalf of the spouses Felicisimo Oriol and Concordia Balida-Oriol, conveying the one-half (1/2) portion of Lot No. 1959 to the couple Manolito Occida and Juliana Sambale-Occida who possessed the one-half (1/2) portion and introduced improvements thereon, such as coconut and caimito trees;
4. Deed of Relinquishment of Rights of Portion of Land, executed by the spouses Oriol in favor of the same couple Manolito Occida and Juliana Sambale-Occida, to further strengthen the transfer of possession and whatever possessory rights the Oriols had in the lot in question;
5. Deed of Absolute Sale of Land executed by Concordia Balida-Oriol with the conformity of Teodosio Mosquito (another claimant), to prove that the other half of Lot No. 1959 was sold in 1978 to Mr. and Mrs. Anastacio Terrado whose overseer allowed Sampayan to enter and occupy the premises;
6. Protest filed with the CENRO, Agusan del Sur by the vendee Juliana Sambale-Occida against the Miscellaneous Sales Application of Cristita Quita;
7. Affidavit of Dionesia Noynay attesting to the fact that she is residing in Lot No. 1957, a lot adjacent to the lot in question, since 1960 up to the present. In the same affidavit, Dionisia claimed that neither Cristita Quita, much

less the plaintiffs, had ever possessed Lot No. 1959. She claimed that it was the Occida couple who possessed said lot and introduced improvements thereon; and

8. Affidavit of Juliana Occida and Maria Ybañez to show the impossibility of plaintiffs' possession of the same lot.

Meanwhile, on March 21, 1996, while the case was pending with the MCTC, the presiding judge thereof personally conducted an ocular inspection of the contested lot in the presence of the parties and/or their counsels. Among those found in the area during the inspection are: the house of defendant Sampayan; the dilapidated house of a certain Peter Siscon; and a portion of the house of Macario Noynay, husband of Dionisia Noynay, one of Sampayan's witnesses.

Based on his ocular findings, the judge concluded that the improvements he saw in the premises could never have been introduced by the plaintiffs nor by their mother Cristita Quita but by the vendees of the same lot. Reproduced by petitioner Jose Sampayan in the instant petition as well as in the Memorandum he subsequently filed with this Court, the MCTC judge's findings and observations during the ocular inspection, about which the herein private respondents took no exception whatsoever, are hereunder quoted, as follows:

"Noted inside the land are the house of the defendant, Cesar Sampayan, of Peter Siscon, which appears to be dilapidated, and part of the house of Macario Noynay which encroached to the land in question. Planted on the land are five (5) coconut trees, fruit bearing, three (3) not fruit bearing coconut trees, and three (3) star apple or caimito trees. Defendant Sampayan admitted that he started occupying the land since 1992. It is admitted by the parties during the ocular inspection that one-half (1/2) portion of the land was bought by a certain Occida from certain Mr. and Mrs. Felicisimo Oriol.

The findings in the ocular inspection have confirmed the allegation of the defendant that his predecessors-in-interest have introduced improvements by planting caimito trees, coconut trees, and others on the land in question. Nothing can be seen on the land that plaintiffs had once upon a time been in possession of the land. The allegation that Cristita Quita, the predecessor-in-interest of the plaintiffs had been in possession of the said property since 1957, openly, exclusively, continuously, adversely and in the concept of an owner is a naked claim, unsupported by any evidence.

Clearly, from the appearance of the improvements introduced by the predecessors-in-interest of the defendant, it is showed that they have been in possession of the land for more than one (1) year. Hence, the action of the plaintiffs, if any, is accion publiciana or plenaria de possession"[1] (Emphasis supplied).

In time, the MCTC rendered judgment dismissing the compliant "for lack of merit".

Therefrom, the plaintiffs appealed to the Regional Trial Court (RTC) at Agusan del Sur, which appeal was raffled to Branch VII thereof. In a decision dated December 5, 1996, said court reversed that of the MCTC, taking note of the fact that Cristita Quita was among the oppositors in Cadastral Case No. 149 and that she filed a Miscellaneous Sales Application over the lot. On the basis of such finding, the RTC concluded that it was Cristita Quita, predecessor-in-interest of the herein private respondents, who was in actual prior physical possession of Lot No. 1959.

Unable to accept the RTC judgment, Sampayan went to the Court of Appeals on a petition for review, thereat docketed as CA-G.R. SP No. 43557.

As stated at the threshold hereof, the Court of Appeals, in the herein assailed Decision dated May 16, 2002,[2] denied Sampayan's petition. His motion for reconsideration having been similarly denied by that court in its Resolution of November 7, 2002,[3] Sampayan is now with us via the present recourse, it being his submissions -

“I.

THAT THE COURT OF APPEALS ERRED IN RULING THAT THE MUNICIPAL CIRCUIT TRIAL COURT OF BAYUGAN, AGUSAN DEL SUR, HAS JURISDICTION OVER THE CASE, CONSIDERING THAT DURING THE HEARING THEREOF IT WAS FOUND OUT BY THE SAID MUNICIPAL COURT THAT ACCION PUBLICIANA OR PLENARIA DE POSESION, AND NOT FORCIBLE ENTRY, IS THE PROPER ACTION;

II.

THAT THE CONCLUSION OF THE HONORABLE COURT OF APPEALS THAT PRIVATE RESPONDENTS HAVE BEEN IN PRIOR ACTUAL POSSESSION IS CONTRADICTED BY EVIDENCE ON RECORD, AND CONSIDERING THAT THE POSSESSION TO BE LEGALLY SUFFICIENT, CONSIST (SIC) IN THE EXERCISE OF DOMINIUM OVER IT, SUCH AS FENCING, CULTIVATING OR OTHER UNMISTAKABLE ACTS OF EXCLUSIVE CUSTODY AND CONTROL – FACTS WHICH THE PRIVATE RESPONDENTS HAVE NEVER DONE - IS CONTRARY TO LAW”.[4]

In the main, petitioner maintains that based on the pieces of evidence on record, he had sufficiently proven his prior physical possession of the subject lot. Upon this premise, he argues that private respondents' complaint for forcible entry has no leg to stand on, adding that the proper remedy available to the latter is accion publiciana or plenaria de posesion which falls under the original jurisdiction of Regional Trial Courts and not of Municipal Circuit Trial Courts.

As we see it, the arguments put forward by the petitioner crystallize to one pivotal question: will the complaint for forcible entry in this case prosper? To resolve this, however, we must first determine as to who between the herein parties was in prior actual physical possession of the subject lot at the time the complaint was filed in the MCTC. For, as we have said in *Gaza vs. Lim*[5],

“xxx In an action for forcible entry, the plaintiff must prove that he was in prior possession of the land or building and that he was deprived thereof by means of force, intimidation, threat, strategy or stealth. xxx”

We emphasize, absence of prior physical possession by the plaintiff in a forcible entry case warrants the dismissal of his complaint.

Undoubtedly, the issue of prior physical possession is one of fact, and settled is the rule that this Court is not a trier of facts and does not normally embark on a re-examination of the evidence adduced by the parties during trial. Of course, the rule admits of exceptions. So it is that in *Insular Life Assurance Company, Ltd. vs. CA*,[6] we wrote:

“[i]t is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties' during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties,

which, if properly considered, would justify a different conclusion.”

To our mind, exceptions (5) and (11) are present in this case.

However, before delving into the question of who as between the petitioner and private respondents had prior physical possession of the subject lot, we deem it best to first resolve the issue of whether or not the MCTC had jurisdiction over the complaint filed in this case, an issue also raised by the petitioner.

Relying on the conclusion of the MCTC that private respondents’ proper remedy is accion publiciana or plenaria de posesion, and not forcible entry, petitioner would deny the MCTC’s jurisdiction over the case.

Petitioner is in error.

In *Sarmiento vs. CA*[7], we held:

“[t]o give the court jurisdiction to effect the ejectment of an occupant or deforciant on the land, it is necessary that the complaint should embody such a statement of facts as brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol testimony. The jurisdictional facts must appear on the face of the complaint. x x x”

Clear it is from the above that for the MCTC to acquire jurisdiction over a forcible entry case, it is enough that the complaint avers the jurisdictional facts, i.e. that the plaintiff had prior physical possession and that he was deprived thereof by the defendant through force, intimidation, threats, strategy and stealth.[8] The complaint in this case makes such an averment. Hence, the irrelevant circumstance that the evidence adduced during the hearing rendered improper an action for forcible entry is of no moment and cannot deprive the MCTC of its jurisdiction over the case. The MCTC continues to have that jurisdiction.

We shall now address the more decisive question of prior physical possession.

After a careful evaluation of the evidence at hand, we find for the petitioner.

To begin with, we are at once confronted by the uncontested findings of the MCTC judge himself during his ocular inspection of the premises in dispute that what he saw thereat “confirmed the allegations of the defendant [now petitioner Sampayan] that his predecessors-in-interest have introduced improvements by planting caimito trees, coconut trees, and others on the land in question”, adding that “[N]othing can be seen on the land that plaintiff had once upon a time been in possession of the land”, and categorically stating that “[T]he allegation that Cristita Quita, the predecessor-in-interest of the plaintiffs had been in possession of the said property since 1957, openly, exclusively, continuously, adversely and in the concept of an owner is a naked claim, unsupported by any evidence”.

Then, too, there is the sworn affidavit of Dionesia Noynay to the effect that she had been residing since 1960 onward on Lot No. 1957, the lot adjacent to Lot No. 1959, and that neither the private respondents nor their mother had ever possessed Lot No. 1959. Coming as it does from an immediate neighbor, Dionesia’s statement commands great weight and respect. Incidentally, the MCTC judge himself found during the ocular inspection that a portion of the house of Macario Noynay, husband of Dionesia, protruded on Lot No. 1959.

We note that in the herein assailed decision, the Court of Appeals attached much significance to the fact that private respondents’ mother Cristita Quita was an oppositor in Cadastral Case No. 149. We rule and so hold that the mother’s being an oppositor in said cadastral case does not, by itself, establish prior physical possession because not all oppositors in cadastral cases are actual possessors of the lots or lands subject thereof.

WHEREFORE, the instant petition is hereby GRANTED and the Decision and Resolution, respectively dated May 16, 2002 and November 7, 2002, of the Court of Appeals REVERSED and SET ASIDE.

SO ORDERED.

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

[1] Petition, p. 3; Rollo, p. 14; Petitioner's Memorandum, pp. 7-8; Rollo, pp. 65-66.

[2] Annex "A", Petition; Rollo, pp. 26-34.

[3] Annex "C", Petition, Rollo, p. 41.

[4] Petitioner's Memorandum, Rollo, pp. 60, et seq., at pp. 74-75.

[5] 395 SCRA 261, 269 [2003], citing Sps. Benitez vs. CA, 334 Phil. 216, 222 [1997].

[6] G.R. No. 126850, April 28, 2004, citing Langkaan Realty Development, Inc. vs. United Coconut Planters Bank, 347 SCRA 542, 549 [2000], Nokom vs. National Labor Relations Commission, 390 Phil. 1228, 1242 [2000], Commissioner of Internal Revenue vs. Embroidery and Garments Industries (Phil.), Inc., 363 Phil. 541, 546 [1999], Sta. Maria vs. Court of Appeals, 349 Phil. 275, 282-283 [1998].

[7] 320 Phil. 146, 156 [1995].

[8] Spouses Tirona vs. Hon. Alejo, 419 Phil. 285 [2001].

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