

VICTORIA R. ARAMBULO AND MIGUEL R. ARAMBULO III, PETITIONERS, VS. EMERENCIANA R. GUNGAB, RESPONDENT.

G.R. NO. 156581. September 30, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari are the Decision[1] dated August 30, 2002 of the Court of Appeals in CA-G.R. SP No. 65042, and its Resolution[2] dated January 6, 2003, denying the motion for reconsideration. The Court of Appeals ordered petitioners to vacate the property subject of this case. The assailed Decision reversed and set aside the decision[3] of the Regional Trial Court (RTC) which affirmed the joint decision[4] of the Metropolitan Trial Court (MeTC) in two ejectment cases filed by respondent.

The facts are as follows:

Respondent Emerenciana R. Gungab is the registered owner of the contested parcel of land with improvements located in Quezon City and covered by Transfer Certificate of Title (TCT) No. 48330.

Petitioners are her sister Victoria R. Arambulo and nephew Miguel R. Arambulo III.

In separate letters[5] dated October 19, 1998, respondent's counsel made a formal demand to petitioners to vacate the subject property on or before November 30, 1998. Petitioners refused.[6]

Respondent sought the assistance of the barangay authorities. However, no amicable settlement was reached.

On February 2, 1999, respondent filed separate ejectment complaints against the petitioners before the MeTC of Quezon City, docketed as Civil Case Nos. 21855[7] and 21856.[8] Respondent alleged (1) that she owns the subject property; (2) that she tolerated petitioners' occupancy of certain portions of the subject property without rent; and (3) that despite her demands, they refused to vacate the subject property.

Petitioners denied respondent's claim of sole ownership of the subject property, asserting that petitioner Victoria Arambulo is a co-owner. They stated (1) that after Pedro Reyes, father of respondent Emerenciana and petitioner Victoria, died intestate in 1964, the property became part of the common properties of the Reyes clan; (2) that during her lifetime, Anastacia Reyes, wife of Pedro, allowed her daughter, petitioner Victoria, to use and occupy a certain portion of the subject property; (3) that Victoria continuously used and occupied this portion for the last 20 years; (4) that Anastacia also allowed her grandson, petitioner Miguel, to use another portion of the subject property since 15 years ago; and (5) that their "use and possession" of these portions of the subject property "had been with the knowledge, consent and tolerance of all the other co-owners."[9]

Aside from these ejectment cases, there is also a pending case for annulment of transfer and reconveyance of title before the RTC of Quezon City, which Victoria and three of her brothers filed against respondent and her husband.

In its joint decision,[10] the MeTC of Quezon City, Branch 39, dismissed the ejectment cases for lack of cause of

action. It ruled that summary procedure was not the proper procedure to resolve the cases. This ruling was based on its findings (1) that respondent's allegation of tolerance was preposterous since she failed to prove her proper acquisition of the subject property; and (2) that petitioners were entitled to retain possession of the subject property pursuant to Article 448[11] of the Civil Code.

Respondent appealed, but the RTC of Quezon City, Branch 80, upheld the MeTC's judgment, in toto.[12]

After her motion for reconsideration was denied, respondent filed a petition for review with the Court of Appeals, which it disposed of as follows:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the judgment appealed from must be, as it is hereby, REVERSED and SET ASIDE, and a new one entered ordering [petitioners] to vacate the portion of the subject property under their occupancy or possession, and to surrender the same forthwith to [respondent]. Without special pronouncement as to costs.

SO ORDERED.[13]

In reversing the RTC, the Court of Appeals, observing that both parties raised the issue of ownership, provisionally resolved said issue to determine the issue of possession. It noted the failure of the MeTC and RTC to evaluate thoroughly the pieces of evidence submitted by the parties. The Court of Appeals held that respondent had a preferred right to possess the property because she had a genuine TCT. It rejected for being unsubstantiated, petitioners' claim that Victoria was a co-owner of the subject property.

The Court of Appeals denied petitioners' motion for reconsideration.

Hence, this petition. Petitioners allege that:

(1)

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN RELYING SOLELY ON THE TRANSFER CERTIFICATE OF TITLE IN THE NAME OF RESPONDENT IN REVERSING THE DECISION RENDERED BY THE REGIONAL TRIAL COURT OF QUEZON CITY.

(2)

THE HONORABLE COURT OF APPEALS COMMITTED MANIFEST ERROR IN NOT CONSIDERING THE CLEAR FACT THAT RESPONDENT WAS NEVER IN POSSESSION OF THE PROPERTY IN QUESTION AND ACCORDINGLY, THERE IS NO PHYSICAL POSSESSION TO RESTORE AND PROTECT.

(3)

THE HONORABLE COURT OF APPEALS IGNORED THE CLEAR FACT THAT THERE ARE EQUITABLE AND SPECIAL CIRCUMSTANCES OBTAINING BETWEEN THE PARTIES, PARTICULARLY THE INTENDED SALE OF THE SUBJECT PROPERTY BY THE RESPONDENT, THAT IS LIKELY TO CREATE CONFUSION, DISTURBANCE, AND EVEN BLOOD-SHED, WHICH WILL JUSTIFY THE SUSPENSION OF THE DECISION IN THE UNLAWFUL DETAINER CASE RENDERED BY THE HONORABLE COURT OF APPEALS TO AWAIT THE DISPOSITION IN THE PENDING CIVIL ACTION FOR ANNULMENT OF TRANSFER AND RECONVEYANCE OF TITLE OF THE SAME PROPERTY.

(4)

THE HONORABLE COURT OF APPEALS ERRED IN RENDERING THE APPEALED DECISION NOT IN ACCORD WITH LAW, EVIDENCE AND FACTS OF THE CASE.[14]

The sole issue is, can respondent eject petitioners?

Petitioners contend that the Court of Appeals erred in reversing the RTC by relying only on respondent's TCT without considering that respondent was never in possession of the property. They insist that they were in possession of the subject property and so there was no physical possession to restore and protect. They pray that the Court suspend the Court of Appeals' Decision pending resolution of the case for annulment of transfer and reconveyance of title before the RTC.

Respondent counters that the Court of Appeals correctly reversed the decision of the RTC since the best proof of ownership of a piece of land is the certificate of title. She maintains that a pending civil action for annulment of transfer and reconveyance of title in a separate proceeding is of no moment in an ejectment case.

Pertinent to the instant case are the summary remedies of forcible entry and unlawful detainer under Section 1, Rule 70[15] of the Rules of Court. They are distinguished from each other as follows:

... In forcible entry, one is deprived of physical possession of land or building by means of force, intimidation, threat, strategy, or stealth. In unlawful detainer, one unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. In forcible entry, the possession is illegal from the beginning and the basic inquiry centers on who has the prior possession de facto. In unlawful detainer, the possession was originally lawful but became unlawful by the expiration or termination of the right to possess, hence the issue of rightful possession is decisive for, in such action, the defendant is in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.

What determines the cause of action is the nature of defendant's entry into the land. If the entry is illegal, then the action which may be filed against the intruder within one year therefrom is forcible entry. If, on the other hand, the entry is legal but the possession thereafter became illegal, the case is one of unlawful detainer which must be filed within one year from the date of the last demand.[16]

Here, respondent's cause of action was not deprivation of possession of the subject property by force, intimidation, threat, strategy or stealth. Rather, these were for unlawful detainer since respondent alleged that (1) she owns the subject property; (2) she allowed petitioners to occupy it by tolerance; (3) she withdrew her consent and demanded that petitioners vacate it, but they refused. Her complaints were also filed within one year from the date of her last demand.

The sole issue for resolution in an unlawful detainer case is physical or material possession.[17] But even if there was a claim of juridical possession or an assertion of ownership by the defendant, the MeTC may still take cognizance of the case. All that the trial court can do is to make an initial determination of who is the owner of the property so that it can resolve who is entitled to its possession absent other evidence to resolve ownership.[18] Courts in ejectment cases decide questions of ownership only as it is necessary to decide the question of possession. The reason for this rule 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.[19]

In this case, the evidence showed that respondent has a Torrens Title over the land. The Court of Appeals correctly ruled that respondent, as registered owner, is preferred to possess it. The age-old rule is that the person who has a Torrens Title over a land is entitled to possession thereof.[20] Except for petitioners' unsubstantiated claim that Victoria Arambulo is a co-owner of the property, they have not presented other justification for their

continued stay thereon.

We stress, however, that this determination of ownership is not final. It is only an initial determination of ownership for the sole purpose of settling the issue of possession. It would not prejudice the pending action in the RTC of Quezon City between the same parties involving title to the property.[21]

Persons who occupy the land of another at the latter's tolerance or permission, without any contract between them is bound by an implied promise that they will vacate the same upon demand, failing which a summary action for ejectment is the proper remedy against them.[22] Notably, Anastacia Reyes only allowed petitioners to use and occupy certain portions of the subject property. They admitted their "use and possession" of these portions of the subject property "had been with the knowledge, consent and tolerance of all the other co-owners." Consequently, after respondent obtained title to the subject property and withdrew her tolerance later on, petitioners' refusal to vacate it rendered their possession thereof unlawful.

Since petitioners' occupation of the subject property was by mere tolerance, they are not entitled to retain its possession under Article 448[23] of the Civil Code. They are aware that their tolerated possession may be terminated any time and they cannot be considered as builders in good faith.[24] Moreover, as aptly found by the Court of Appeals, petitioners have not presented evidence to prove that they made improvements on the subject property and defrayed the expenses therefor.

We also cannot sustain petitioners' contention that since they had possession of the subject property, they are entitled to remain there. Again, they confuse unlawful detainer with forcible entry. Prior physical possession by the plaintiff is not necessary in an unlawful detainer case. It is enough that she has a better right of possession. Prior physical possession of a property by a party is indispensable only in forcible entry cases.[25] In unlawful detainer cases, 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. Thus, petitioners' prior physical possession of the property does not automatically entitle them to continue in said possession and does not give them a better right to the property.

Finally, petitioners cannot seek suspension of this case pending resolution of the case for annulment of transfer and reconveyance of title before the RTC. An action for reconveyance of property or accion reivindicatoria has no effect on ejectment suits regarding the same property. Neither do suits for annulment of sale, or title, or document affecting property operate to abate ejectment actions respecting the same property.[26]

This case involves sisters and one of the sister's sons. However, we are constrained to affirm the Court of Appeals' Decision, mindful of the circumstances of this case. The alleged intended sale of the subject property cannot likewise justify suspending this case. We found no factual basis for this allegation, which was not even brought before the MeTC and RTC, but was only brought to the Court of Appeals in petitioners' motion for reconsideration.

WHEREFORE, the petition is DENIED. The Decision dated August 30, 2002 and Resolution dated January 6, 2003 of the Court of Appeals are AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 37-45. Penned by Associate Justice Renato C. Dacudao, with Associate Justices Ruben T. Reyes, and Amelita G. Tolentino concurring.

[2] Id. at 52-53.

[3] Id. at 48-50.

[4] CA Rollo, pp. 145-147.

[5] Id. at 30, 39.

[6] Id. at 57-58.

[7] Records, pp. 115-123 (Q-00-41701-A). Emerenciana R. Gungab v. Miguel Arambulo III and all Persons claiming rights under him.

[8] Id. at 1-9 (Q-00-41701). Emerenciana R. Gungab v. Victoria R. Arambulo and all Persons claiming rights under her, John Doe, Jane Doe, Richard Doe. Later consolidated with Civil Case No. 21855.

[9] Records, pp. 186-194 (Petitioners' Position Paper dated May 17, 2000).

[10] CA Rollo, pp. 145-147.

[11] Art. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

Art. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

Art. 548. Expenses for pure luxury or mere pleasure shall not be refunded to the possessor in good faith; but he may remove the ornaments with which he has embellished the principal thing if it suffers no injury thereby, and if his successor in the possession does not prefer to refund the amount expended.

[12] Rollo, pp. 48-50.

[13] Id. at 45.

[14] Id. at 138, 143, 147, 150 (Memorandum for Petitioners).

[15] Section 1. Who may institute proceedings, and when. – Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

- [16] Go, Jr. v. Court of Appeals, G.R. No. 142276, 14 August 2001, 362 SCRA 755, 766.
- [17] Co v. Militar, G.R. No. 149912, 29 January 2004, 421 SCRA 455, 458-459.
- [18] Pengson v. Ocampo, Jr., G.R. No. 131968, 29 June 2001, 360 SCRA 420, 425.
- [19] Rivera v. Rivera, G.R. No. 154203, 8 July 2003, 405 SCRA 466, 471.
- [20] Eastern Shipping Lines, Inc. v. Court of Appeals, G.R. No. 136080, 16 January 2002, 424 Phil. 544, 553; Javelosa v. CA, G.R. No. 124292, 10 December 1996, 333 Phil. 331, 343.
- [21] Supra, note 19 at 472.
- [22] Boy v. Court of Appeals, G.R. No. 125088, 14 April 2004, 427 SCRA 196, 206.
- [23] Supra, note 11.
- [24] Del Rosario v. Manuel, G.R. No. 153652, 16 January 2004, 420 SCRA 128, 131.
- [25] Javelosa v. CA, supra, note 20 at 341.
- [26] Hilario v. Court of Appeals, G.R. No. 121865, 7 August 1996, 260 SCRA 420, 427-428. See also Barba v. Court of Appeals, G.R. No. 126638, 6 February 2002, 376 SCRA 210, 220-221.

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