

MINERVA UMPOC, ATTY. ILDEBRANDO VIERNESTO AND ETHEL MANALOTO, PETITIONERS, VS. MILDRED MERCADO AS ADMINISTRATRIX OF THE ESTATE OF THE LATE DR. JESUSA BARRIOS, RESPONDENT.

G.R. NO. 158166. January 21, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Public policy dictates that unlawful detainer cases be resolved with the least possible delay and judgments in favor of plaintiff are executed immediately. The beneficence of this rule however continues to elude the prevailing party in the bizarre turns and twists in this ejectment suit.[2]

In focus in this petition for review is the decision[3] dated 3 December 2002 of the Court of Appeals in CA-G.R. SP. No. 68216 affirming the decision dated 24 October 2001 of the Regional Trial Court (RTC) of Manila, Branch 7, which, in turn, upheld the Decision dated 19 December 2000 of the Metropolitan Trial Court (MeTC) of Manila, Branch 5, in Civil Cases No. 166784 CV, No. 166785 CV, and No. 166786 CV for unlawful detainer. Likewise for review is the Court of Appeals' resolution[4] dated 19 May 2003, which denied petitioners' motion for reconsideration.

The precursor facts of the case as ascertained by the Court of Appeals, which we find to be sufficiently supported by the records, follow:

Respondent MILDRED Jacinto Mercado filed on 13 July 1999 a petition for letters of administration in Special Proceedings No. 99-94491 for the estate of the late Dr. Jesusa Barrios, who died a spinster on 23 March 1999, with no legal heirs other than her nieces, Luz Icamina and Remedios Jacinto. On 22 December 1999, she was subsequently granted the letters of administration, but the petition was later on opposed by one Pedro Viernesto, father of petitioner Atty. Ildebrando Viernesto, who claimed to have been named not only as one of the devisees and legatees but also as an executor of a holographic will dated 25 May 1975 said to have been executed by Dr. Jesusa Barrios.[5]

Pedro Viernesto asserted that the testatrix, prior to her death, disposed of several real properties included in the will. In an order dated 02 May 2002, the RTC, National Capital Judicial Region, Branch 3, Manila, admitted the will for probate but denied the motion to recall the appointment of respondent herein as administratrix of the estate, it appearing that there were other after-acquired properties not covered in the dispositions of the will.[6]

On the strength of the authority under the letters of administration, respondent, as administratrix of the estate of Dr. Jesusa Barrios, proceeded to take possession of all the properties of the decedent. One of the properties still registered in the name of Dr. Jesusa Barrios was a lot located at 1120-1126 Don Quijote Street, Sampaloc, Manila, covered by Transfer Certificate of Title (TCT) No. 100777[7] of the Registry of Deeds of Manila, where a four-unit apartment stands. Petitioners herein are the occupants of said apartment.

Respondent sent individual demand letters dated 28 January 2000, 10 February 2000, and 28 February 2000 to petitioners Atty. Ildebrando D. Viernesto, Ethel Bautista-Manaloto, and Minerva Umpoc, occupants respectively of units 1126, 1122 and 1124, and 1120 of the said apartment, asking them to vacate the same and to pay rentals.[8]

In a letter dated 10 February 2000, petitioner Atty. Ildebrando Viernesto, in behalf of the occupants, replied that the subject premises no longer formed part of the estate of the late Dr. Jesusa Barrios as they had been disposed of in fee simple through a Deed of Sale dated 30 March 1987. Petitioner Viernesto added in his letter that respondent made a misrepresentation in court when she stated under oath that the deceased died intestate considering that she was shown the holographic will of Dr. Jesusa Barrios during a meeting among the decedent's relatives on 25 April 1999. He also advised her to cease and desist from harassing the occupants of the property otherwise they would file the necessary criminal and civil charges against her to protect their rights.[9]

Unflinched by this letter, respondent, as administratrix, commenced Civil Cases No. 166784 CV, No. 166785 CV, and No. 166786 CV on 30 March 2000 before the MeTC of Manila, Branch 5, for unlawful detainer against petitioners Minerva Umpoc, Atty. Ildebrando Viernesto, and Ethel B. Manaloto, respectively.[10]

A day earlier, on 29 March 2000, she instituted before the same court Civil Case No. 00-96952 for Annulment of Deed of Sale with Damages against Ethel Manaloto, Jose Barrios,[11] Pedro Viernesto, and Lorena Adrias, contesting among other things the validity of the 30 March 1987 unregistered Deed of Sale[12] allegedly executed in their favor by the late Dr. Jesusa Barrios.[13]

In her Complaint in Civil Case No. 166784 CV, respondent averred that petitioner Minerva Umpoc was a lessee of decedent Dr. Jesusa Barrios, occupying a unit in the subject apartment and paying rentals for its use during Dr. Jesusa Barrios's lifetime, and continues to occupy the same even after the death of the said decedent. Minerva Umpoc declared in her Answer that even during the lifetime of Dr. Jesusa Barrios, she (Minerva Umpoc) had exercised her rights as lawful possessor of the premises by reason of her agreement with the co-owners of the property who bought the same under a deed of sale dated 30 March 1987 and exercised full ownership over the said four-unit apartment.[14]

As to Civil Case No. 166785 CV against petitioner Atty. Ildebrando Viernesto, respondent asserted in her Complaint that said petitioner whose father, Pedro Viernesto was one of the wards of decedent Dr. Jesusa Barrios, continued to occupy one (1) of the four (4) units of the apartment even after the demise of Dr. Jesusa Barrios. The latter, she said, exercised in her lifetime exclusive rights of ownership over the dwelling units in question, including the enjoyment of rentals from her lessees. Atty. Viernesto claimed in his Answer that even during the lifetime of Dr. Jesusa Barrios, he exercised his rights over the said unit by virtue of his father's agreement with Lorena B. Adrias, a co-owner of the property who exercised full ownership of the property by virtue of the said 30 March 1987 deed of sale.[15]

With respect to Civil Case No. 166786 CV, respondent averred that petitioner Ethel Manaloto, one of the wards of Dr. Jesusa Barrios, continued to occupy two (2) units of the said apartment even after the death of the said decedent who, during her lifetime, exercised exclusive and absolute rights of her ownership over the said property. Manaloto, in her Answer, asserted that even during the lifetime of Dr. Jesusa Barrios, she had exercised her rights as owner through an agreement with said decedent as well as with the other co-owners who bought the property from Dr. Jesusa Barrios under the 30 March 1987 deed of sale and who had since exercised full ownership over the property.[16]

All petitioners, through their common counsel, Atty. Ildebrando Viernesto, interposed the same special defenses that: (1) the complaint does not vest jurisdiction on the inferior court over the case, (2) respondent had no capacity

to sue, and (3) there is no cause of action against them.[17]

Specifically, to boost their claim that the MeTC had no jurisdiction over the case, petitioners argued in their Answers that since the cases involved the ownership of the property and the issue of possession depended on the result of the inquiry into its title, the inferior court lost jurisdiction of the action. Relative to the respondent's lack of capacity to sue, petitioners maintained in their Answer, that respondent, being the administratrix, was merely entrusted with the management and settlement of the estate until the distribution and delivery to the heirs of their prospective shares of the inheritance. Besides, petitioners maintained that the property involved had long been disposed of by the decedent to Pedro Viernesto and several others, so it no longer formed part of the estate of Dr. Barrios. Moreover, petitioners stressed that respondent had no cause of action against them because there was neither an allegation in the complaint nor proof that they deprived respondent or the estate of the subject premises by force, intimidation, threat, strategy, or stealth, or unlawfully withheld possession of the premises after the expiration or termination of the right to do so.[18]

On 19 December 2000, the MeTC decided the three consolidated cases, Civil Cases No. 166784 CV, No. 166785 CV and No. 166786 CV, in favor of respondent Mildred Mercado, as administratrix of the estate of the late Dr. Jesusa Barrios, and ordered petitioners to vacate the premises and restore peaceful possession of them. It did not give weight to the 30 March 1987 Deed of Sale purportedly executed between the decedent and Ethel Manaloto, Jose Barrios, Pedro Viernesto and Lorena Adrias inasmuch as it was not registered within the lifetime of the decedent or during the one-year period after her demise. The lower court, likewise, decreed that petitioners' possession of the premises was merely tolerated and their refusal to vacate the premises, despite demand to do so, makes their possession of the premises illegal. The decretal portion of the Decision reads:

Wherefore, judgment is rendered in favor of the plaintiff ordering the defendants and all persons claiming rights against them to vacate the premises occupied by: defendant Minerva Umpoc at 1120 Don Quijote St., Sampaloc, Manila[;] defendant Atty. Ildebrando Viernesto at 1126 Don Quijote St., Sampaloc, Manila; and defendant Ethel B. Manaloto at 1122-1124 Don Quijote St., Sampaloc, Manila, and restore peaceful possession thereof to the plaintiff ordering defendants Minerva Umpoc and Atty. Ildebrando Viernesto to pay the sum of P8,000.00 per month as a reasonable compensation for the use and occupancy of the premises from March, 1999 and for the succeeding months until finally vacated, and ordering defendant Ethel Manaloto to pay plaintiff the sum of P14,000.00 monthly rental for the two (2) dwelling units as reasonable compensation for occupancy of the premises commencing March 1999 and for the succeeding months until finally vacated. To pay plaintiff the sum of P10,000.00 for each defendant as reduced attorney's fees. Plus costs of suit.[19]

In asserting its jurisdiction over the case, the MeTC declared that under prevailing jurisprudence, suits for annulment of sale or title, or document affecting the property, as in the case at bar, are not treated as prejudicial to an ejectment case. In support of respondent's capacity to sue, the MeTC cited the 1997 Rules on Civil Procedure [20] which provides that an administrator shall have the right to the possession and management of the real as well as the personal estate of the deceased, and may prosecute or defend an action as a representative of the real party in interest.[21]

Petitioners appealed to the RTC. The latter, affirming the decision of the MeTC and granting respondent's prayer for the execution of the MeTC decision, disposed, thus:

WHEREFORE and considering the foregoing and finding no reversible error in the Decision of the lower court, the same is affirmed in toto.

As consequence hereof and as prayed for by the defendants, the court hereby rules to grant the prayer of the plaintiff for the execution of the decision of the lower court which is affirmed in toto by this court.[22]

Meanwhile, on 11 October 2001, the Registry of Deeds of Manila cancelled TCT No. 100777 in the name of the decedent Dr. Jesusa Barrios, and on the basis of the 30 March 1987 Deed of Sale, a new one was issued in the name of the alleged co-owners - Ethel Manaloto, Pedro Viernesto, Jose Barrios and Lorena Adrias.

Petitioners moved for reconsideration of the RTC decision, arguing that the cancellation of the certificate of title and the issuance of a new one in the name of the alleged co-owners constituted a supervening event which rendered beyond question the better right of possession of the petitioners over the property in question.[23] The trial court, however, denied the motion for lack of merit.

Undaunted, petitioners elevated the case to the Court of Appeals.[24] On 3 December 2002, the Court of Appeals rendered its decision[25] in CA-G.R. SP. No. 68216 affirming the decision of the RTC of Manila. The fallo of the decision states:

WHEREFORE, finding no sufficient reason to set aside the assailed October 24, 2001 decision of the Regional Trial Court, National Capital Judicial Region, Branch 7, Manila, the same is hereby AFFIRMED. [26]

Petitioners' motion for reconsideration was met with equal lack of success in the Court of Appeals resolution[27] dated 19 May 2003.

Petitioners now lay their cause before us through the present petition for review, raising the following arguments:

A. In promulgating the questioned decision on December 3, 2002 and resolution on may 19, 2003, the honorable court of appeals committed grave, serious and palpable transgression of law and settled jurisprudence in holding that:

1. There is lessor-lessee relationship between the parties on the basis of the tolerance allegedly extended to them by the late Dr. Jesusa Barrios notwithstanding the paucity of a contract of lease between the latter and the petitioners, Express or implied;

2. Petitioners cannot premise their right to possess the disputed property and eventually the right to claim the ownership of the same (or as persons claiming rights from the co-owners) on the deed of sale dated March 30, 1987, involving the disputed property executed by and between the late Dr. Jesusa barrios and the co-owners on the basis of which the latter were able to subsequently secure a title in their names simply because it was not registered with the register of deeds at the time of the filing of a case FOR ejectment against them;

3. The disputed property is still part of the estate of the late Dr. Jesusa Barrios thereby vesting authority upon the respondent as administratrix to file individual cases for ejectment against petitioners although the same was already sold/disposed of to the co-owners during the lifetime of the late Dr. Jesusa barrios and it was not listed as one of the properties of the estate of the late Dr. Barrios in the petition of the respondent for her appointment as administratrix nor in the inventory of assets she submitted before the regional trial court; and

4. The present case specially the matter pertaining to the execution of the decisions of the METC and RTC cannot be suspended on consideration of Justice and Equity in the meantime that the petition for the annulment of the deed of sale dated March 30, 1987 is pending allegedly because the co-owners did not intervene in the case for ejectment below unaware that a motion for intervention before METC in cases involving ejectment is a prohibited pleading.[28]

Amidst the assortment of issues raised by petitioners, the decisive ones are whether the Court of Appeals and the lower courts erred in ruling: (1) that there is a cause of action for unlawful detainer; (2) that the MeTC has jurisdiction over the case; and (3) that the respondent has the better right of possession over the subject property.

Inasmuch as the first and the second issues are related, we shall address them jointly.

Petitioners argue that a scrutiny of the complaint reveals that respondent's cause of action is neither for unlawful

detainer nor for forcible entry but some other action involving recovery of possession. [29] Citing Section 1, Rule 70, of the 1997 New Rules on Civil Procedure,[30] petitioners aver that inasmuch as there was no contract of lease, whether express or implied, between the petitioners and the late Dr. Jesusa Barrios, there is no cause of action for ejectment and the appellate court gravely erred in upholding the jurisdiction of the MeTC over the case.

Petitioners' rationalization fails to entice this Court.

It is apodictic that what determines the nature of an action as well as which court has jurisdiction over it are the allegations in the complaint and the character of the relief sought.[31] In an unlawful detainer case, the defendant's possession was originally lawful but ceased to be so by the expiration of his right to possess. Hence, the phrase "unlawful withholding" has been held to imply possession on the part of defendant, which was legal in the beginning, having no other source than a contract, express or implied, and which later expired as a right and is being withheld by defendant.[32]

In *Rosanna B. Barba v. Court of Appeals*,[33] we held that a simple allegation that the defendant is unlawfully withholding possession from plaintiff is sufficient. In *Barba*, the complaint which petitioner filed before the Municipal Circuit Trial Court alleged:

2. That plaintiff is the owner of a building and lot located at Lagundi, Mexico, Pampanga, covered by Transfer Certificate of Title No. 353973-R xxx;
3. That the aforesaid building has five (5) doors each occupied by each of the defendant;
4. That the first-named defendant is plaintiff's predecessor-in-interest while the second and third defendants are sisters of the first-named defendant;
5. That the fourth and fifth defendants were tolerated by the first-named to stay on the premises.
6. That after title over the building and lot was issued in plaintiff['s] favor on or about May 27, 1993, plaintiff notified the defendants to vacate the premises but they refused and continue to refuse;
7. That plaintiff xxx in separate letters xxx told each of the defendants to vacate the premises within fifteen (15) days counted from receipt of the letter, x x x;
8. That, notwithstanding, receipt of the letters and the lapse of 15 days defendants refused and continue to refuse to vacate the premises; . . . [34]

The Court was unequivocal in /* that the foregoing allegations sufficiently make out a case for unlawful detainer. Petitioner therein alleged ownership over the subject property as evidenced by a transfer certificate of title in her name; she contended that upon the issuance of a transfer certificate of title in her name, she demanded, through counsel, that private respondents vacate the premises within fifteen days from notice; and notwithstanding such demand, private respondents refused to vacate the same. Although the phrase "unlawfully withholding" was not actually used by petitioner in her complaint, we held that the allegations therein nonetheless amount to an unlawful withholding of the subject property by private respondents because they continuously refused to vacate the premises even after petitioner's counsel had already sent them notices to the effect.

By the same token, respondent averred in the complaints she filed against petitioners that she is the court-appointed administratrix of the estate of the late Dr. Jesusa Barrios. Respondent alleged that among the several properties left by the decedent was a four-unit apartment covered by TCT No. 100777 in the decedent's name over which the exclusive and absolute rights of ownership were enjoyed by the decedent. She claimed that said property was being occupied by the petitioners and pursuant to the order of the court to "take possession of all property of said deceased in any province or provinces in which it may be situated and to perform all other acts

necessary for the preservation of said properties,” she (as administratrix of the Barrios estate) wrote separate demand letters to the petitioners during the early part of the year 2000, advising them to vacate the property and to pay the reasonable rentals. Despite receipt of the letters, petitioners failed and refused to vacate the subject premises up to the present and instead caused the submission for probate of the 25-year old holographic will in the RTC of Manila, together with the 13-year old alleged Deed of Sale over the four-door apartment of the decedent.[35]

The above allegations obviously show the elements of unlawful withholding of property constitutive of unlawful detainer. They also conferred initiatory jurisdiction on the MeTC, because the case was filed within the one-year prescriptive period.

Following Barba, although the phrase “unlawfully withholding” was not actually used by respondent in her complaint, the allegations therein nonetheless amount to an unlawful withholding of the subject property by petitioners because they continuously refused to vacate the premises even after respondent had already sent them demand letters to the effect.

On the third issue of who between the parties has the better right to the physical possession of the premises, petitioners fault the Court of Appeals for holding that respondent has a better right of possession because the petitioners’ occupation of the subject property is by mere tolerance. By raising this issue, petitioners are in effect asking this Court to reassess factual findings. It is aphoristic that this kind of re-examination cannot be done through a petition for review on certiorari under Rule 45 of the Rules of Court because this Court is not a trier of facts; it reviews only questions of law. The Supreme Court is not duty-bound to analyze and weigh again the evidence considered in the proceedings below. Petitioners have not given us ample reasons to depart from the general rule. More so in the instant case, where the Court of Appeals affirmed the factual findings of the trial court[36] and the MeTC.

By the weight of evidence, the lower courts and the appellate court consistently arrived at the same conclusion that the manner of petitioners’ possession of the property in question is by mere tolerance. We are in full accord with the following reasoning of the Court of Appeals:

In relation to the first ground, the error attributed to the lower court is more imagined than real. The gist of the disquisition of the RTC is that while there was no contract of lease, express or implied, between the respondent and the petitioners, it was clear however that the latter came into possession of the property by mere tolerance of decedent Dr. Jesusa Barrios. As such, respondent, being the appointed administratrix over the estate of Dr. Barrios, had the authority to disallow the continued possession by the petitioners of the subject property.

As held by the Supreme Court,. . . 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 is the proper remedy against him. The situation is not much different from that of a tenant whose lease expires but who continues in occupancy by tolerance of the owner, in which case there is deemed to be an unlawful deprivation or withholding of possession as of the date of the demand to vacate. Thus, one whose stay is merely tolerated becomes a deforciant illegally occupying the land or property the moment he [was] required to leave.

In the same vein, petitioners, having been adjudged to be possessors by mere tolerance, may be said to have unlawfully withheld possession of the property upon their receipt of the respective letters requiring them to vacate the premises. For their failure to restore possession to the registered owner thereof, a summary action for ejectment is therefore a remedy available against them.[37] (Emphasis supplied.)

The findings of the RTC and the MeTC being replete of basis in fact and in law, respondent Court of Appeals was fully justified in decreeing a confirmation of their judgments.

Petitioners further assail the probative value and weight given by the Court of Appeals in favor of the respondent's documentary evidence, while refusing to give credence or value to the documents presented by the petitioners. Specifically, petitioners contend that (1) the Deed of Sale executed between Dr. Jesusa Barrios and Ethel Manaloto, Jose Barrios, Pedro Viernesto, and Lorena Adrias, and (2) the transfer of title in their names, should have been considered as having established petitioners' better right of possession and ownership of the disputed property.

A portion of the Court of Appeals decision reads:

With regard to the second ground, we agree with the petitioners that the fundamental basis of their occupation of the subject property is the alleged March 30, 1987 deed of sale. However, we cannot fault the lower court for ruling in favor of the respondent. Between a title registered in the name of the decedent and that of an unregistered deed of sale with its attendant circumstances, the former should take precedence.

To digress, the deed of sale executed on March 30, 1987 remained unregistered during the lifetime of Dr. Barrios. The alleged vendees never took possession of their respective units but occupied units different from those designated to them in the deed of sale. There was no evidence presented that they paid realty taxes on the property. Besides, they never in any manner intervened in the unlawful detainer cases with the exception of Ethel Manaloto who was a defendant in one of the cases. Moreover, the peculiar arrangement between the supposed co-owners and the petitioners herein was not established by evidence. All these circumstances were enough to engender a doubt in the mind of the lower court as to the veracity of the said deed of sale.[38]

The issuance of a new TCT in the name of the alleged buyers in the litigated Deed of Sale from whom petitioners derived their right to possess the apartment units does not import conclusive evidence of ownership.[39] At the time the MeTC rendered its ruling on the unlawful detainer case, the disputed property was in the name of the decedent, Dr. Jesusa Barrios. It was only when they were being ejected from the premises did petitioners bring up the 1987 Deed of Sale. Adding to the dubiety of their claim of ownership over the subject property is the fact that petitioners herein waited thirteen (13) years before causing the transfer of the property in the names of the alleged vendees on the basis of the 1987 Deed of Sale, the validity of which is the very subject of a separate case for annulment of title filed by the respondent. Too, as found by the Court of Appeals and the lower courts, petitioners are occupying units of the apartments which are different from those conveyed to their assignors in the impugned Deed of Sale. Thus, in our mind, no error could be laid at the door of the MeTC, the RTC, and the Court of Appeals, for giving more probative weight to the TCT in the name of the decedent vis-à-vis the contested unregistered Deed of Sale – the sole evidence upon which they anchor their claim of ownership.

In civil cases, the burden of proof is on the plaintiff to establish his case by a preponderance of evidence. If he claims a right granted or created by law, he must prove his claim by competent evidence. He must rely on the strength of his own evidence and not on the weakness of that of his opponent.[40] In the instant case, the MeTC, the RTC, as well as the Court of Appeals, had correctly ruled that respondent, as administratrix of the Barrios estate, had shown sufficient proof of ownership over the subject land covered by TCT No. 100777 so as to entitle her to the return of the same.

In passing, we emphasize that our disquisitions on the issue of ownership in ejectment cases, as in the case at bar, is only provisional to determine who between the parties has the better right of possession.[41] It is, therefore, not conclusive as to the issue of ownership, which is the subject matter of a separate case of annulment of title filed by respondent. Our ruling that the respondent has a better right of possession was arrived at on the basis of evidence without prejudice to the eventual outcome of the annulment case, where the issue as to who has title to the property in question is fully threshed out. As the law now stands, in an ejectment suit, the question of ownership may be provisionally ruled upon for the sole purpose of determining who is entitled to possession de

facto.[42]

On the other matters raised by petitioners, this is a simple ejectment suit and we shall not complicate the case by delving into such side issues not germane to the basic question of who has the better right of possession over the litigated property.

WHEREFORE, the instant petition is DENIED. The decision dated 03 December 2002 and resolution dated 19 May 2003 of the Court of Appeals in CA-G.R. SP No. 68216 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, (Acting C.J.), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Deceased; Substituted by Josephine P. Jacinto-Luces who took her oath as administratrix of the estate of the late Dr. Jesusa Barrios per Order dated 2 July 2004 of the Regional Trial Court, National Capital Judicial Region, Branch 3, Manila, appointing Luces as administratrix of the Barrios estate, Rollo, pp. 554-555.

[2] Chua v. Court of Appeals, G.R. No. 112948, 18 April 1997, 271 SCRA 546.

[3] Rollo, pp. 43-53; Penned by Associate Justice Jose L. Sabio Jr., with Associate Justices Portia Aliño-Hormachuelos and Amelita G. Tolentino, concurring.

[4] Id. at 54-55.

[5] Id. at 44.

[6] Ibid.

[7] Id. at 260.

[8] Id. at 44-45.

[9] Id. at 45.

[10] Ibid.

[11] Also spelled as “Jose A. Arias” in other parts of the records, Id. at 45.

[12] Rollo, p. 98.

[13] Id. at 45.

[14] Id. at 45-46.

[15] Id. at 46.

[16] Id.

[17] Id. at 47.

[18] Id. at 47-48.

[19] Id. at 286.

[20] RULE 84, SEC. 3. Executor or administrator to retain whole estate to pay debts, and to administer estate not willed. – An executor or administrator shall have the right to the possession and management of the real as well as

the personal estate of the deceased so long as it is necessary for the payment of the debts and expenses of administration.

[21] Rollo, pp. 48-49.

[22] Id. at 90.

[23] Id. at 50.

[24] Ibid.

[25] Id. at 43-53.

[26] Id. at 53.

[27] Id. at 54-55.

[28] Id. at 16-17.

[29] Id. at 16.

[30] 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. (Emphasis supplied.)

[31] Ten Forty Realty and Development Corp. v. Cruz, G.R. No. 151212, 10 September 2003, 410 SCRA 484.

[32] Barba v. Court of Appeals, G.R. No. 126638, 6 February 2002, 376 SCRA 210, 216-217; Tirona v. Alejo, G.R. No. 129313, 10 October 2001, 367 SCRA 17.

[33] G.R. No. 126638, 6 February 2002, 376 SCRA 210.

[34] Id. at 217.

[35] Rollo, pp. 115-116; pp. 104-105; p. 93.

[36] De Guia v. Court of Appeals, G.R. No. 120864, 8 October 2003, 413 SCRA 114.

[37] Rollo, pp. 50-51.

[38] Id. 51.

[39] Oronce v. Court of Appeals, G.R. No. 125766, 19 October 1998, 298 SCRA 133.

[40] Heirs of Spouses Julian Dela Cruz and Magdalena Tuazon v. Heirs of Florentino Quintos, Sr., G.R. No. 149692, 30 July 2002, 385 SCRA 471.

[41] Ten Forty Realty and Development Corp. v. Cruz, *supra*, note 31.

[42] Rule 70, Section 16. Resolving defense of ownership. - When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the

issue of ownership shall be resolved only to determine the issue of possession. (1997 Revised Rules on Civil Procedure)

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