

ADING QUIZON, BEN ZABLAN, PETER SIMBULAN AND SILVESTRE VILLANUEVA, PETITIONERS, VS. LANIZA D. JUAN, RESPONDENT.*G.R. No. 171442. June 17, 2008*

Ponente: CHICO-NAZARIO, J.

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Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Revised Rules of Court filed by petitioners Ading Quizon (Quizon), Ben Zablan (Zablan), Peter Simbulan (Simbulan) and Silvestre Villanueva (Villanueva), seeking the reversal and the setting aside of the Decision[2] dated 15 March 2005 and the Resolution[3] dated 24 January 2006 of the Court of Appeals in CA-G.R. SP No. 72921. The appellate court, in its assailed Decision, found that petitioners forcibly entered and dispossessed respondent Laniza Juan (Juan) of her property. Thus, the Court of Appeals affirmed the Resolution[4] dated 8 August 2002 of the Regional Trial Court (RTC) of Capas, Tarlac, Branch 66, in Civil Case No. 527-(01), reversing the Decision[5] dated 14 March 2001 of the Municipal Circuit Trial Court (MCTC) of Capas, Tarlac, in Civil Case No. 2207, which dismissed respondent's complaint for ejectment on the ground that petitioners have established prior physical possession over the disputed property. In its assailed Resolution, the Court of Appeals refused to reconsider its earlier Decision

In her Complaint, respondent alleged that she acquired a parcel of land situated in Sitio Bullhorn, Aranguen, Capas, Tarlac, with an area of 10.2 hectares from Melencio Nuguid (Nuguid) by virtue of a Deed of Sale executed on 11 December 1996. Respondent claimed that on 9 August 2000, petitioners, conspiring and confederating with each other and through the use of force and intimidation, entered a portion of her property without her knowledge and consent. On 21 August 2000, petitioners once again went back to the premises and destroyed the wooden fence set up by respondent, as well as the fruit-bearing trees and rice plantation found therein. Four days later, petitioners supplanted respondent's wooden fence with an iron fence, enclosing an area of about one hectare (subject property), over which they maintained control and possession up to the time of filing of respondent's Complaint with the MCTC.

In their Answer, petitioners countered that the Complaint in Civil Case No. 2207 lacks cause of action, for respondent does not have any legal right over the subject property. Petitioners Quizon and Zablan insisted that they are the lawful owners and possessors of the subject property and it was the respondent who, without any authority from petitioners Quizon and Zablan, invaded and occupied the property.

During the Pre-Trial Conference held on 22 January 2001, the parties stipulated that the houses of petitioners Quizon and Zablan were located outside the respondent's property. The parties likewise agreed that petitioners Simbulan and Villanueva have no possession or interest over the subject property, but they were with petitioners Quizon and Zablan when the alleged encroachment over respondent's property took place.

On 14 March 2001, the MCTC rendered a Decision dismissing Civil Case No. 2207, since respondent failed to establish that petitioners forcibly entered the subject property. The MCTC observed that petitioners Quizon and

Zablan occupied the subject property long before the alleged sale occurred between Nuguid and respondent. Hence, petitioners Quizon and Zablan had sufficiently proved prior possession of the subject property. More importantly, upon ocular inspection, the MCTC found that the subject property occupied by petitioners Quizon and Zablan were outside the property sold by Nuguid to respondent. The dispositive portion of the MCTC Decision reads:

IN VIEW THEREOF, decision is hereby rendered DISMISSING the complaint with cost de officio.

[Petitioners] counterclaim is also dismissed.[6]

On appeal, docketed as Civil Case No. 527-C-2001, the RTC initially affirmed the dismissal of Civil Case No. 2207 in its Decision dated 16 November 2001, ruling that the appealed MCTC Decision was based on facts and law on the matter.

Upon respondent's Motion for Reconsideration, however, the RTC reversed its Decision dated 16 November 2001. In its Resolution dated 20 May 2002, the RTC underscored the stipulations made by petitioners Simbulan and Villanueva during the Pre-Trial Conference before the MCTC that they were with petitioners Quizon and Zablan when the incident that led to the filing of Civil Case No. 2207 occurred, and construed such stipulation as admission that petitioners did unlawfully take over possession of the subject property, as alleged by respondent. Thus, the RTC disposed:

WHEREFORE, finding the [petitioners] to have ousted [respondent] of her possession of her one hectare land at Bullhorn, Aranguren, Capas, Tarlac and the destruction of her plants therein, the Court hereby reconsiders its decision on November 16, 2001 which affirmed in toto the decision of the 2nd Municipal Circuit Trial Court of Capas-Bamban-Concepcion, Capas, Tarlac; thereby reversing said decision and hereby: orders [petitioners] to restore [respondent] to the possession of the one hectare land she had been dispossessed; ordering the defendants to pay the amount of P50,000.00 for the destruction of the [respondent's] fence, crops and fruit bearing trees; ordering the defendants to reimburse the attorney's fees and appearance fees paid by [respondent] to her counsel and to pay the cost.[7]

The Motion for Reconsideration filed by petitioners was denied by the RTC in its Resolution dated 8 August 2002.

Dissatisfied, petitioners filed a Petition for Review with the Court of Appeals where it was docketed as CA-G.R. SP No. 72921, arguing that the RTC erred in not upholding the dismissal by the MCTC of the respondent's complaint in Civil Case No. 2207 for its utter lack of merit. Petitioners asserted that the RTC gravely abused its discretion in reversing the MCTC Decision in Civil Case No. 2207, asserting that they had a better right over the subject property. Petitioners likewise averred that the amount of P50,000.00 adjudged by the RTC as their liability for destroying the vegetables planted on the subject property was excessive.

On 15 March 2005, the Court of Appeals rendered a Decision, affirming the RTC Resolution dated 20 May 2002. The Court of Appeals declared that petitioners did commit forcible entry of the subject property since the parties already made a stipulation to that effect during the Pre-Trial Conference before the MCTC, to wit:

[Respondent] bought on December 11, 1996 from [Nuguid] a parcel of land consisting of 52,000 (sic) sq. meters situated at Bullhorn, Brgy. Aranguren, Capas, Tarlac; it was also stipulated upon proposal of the [petitioners] that [Simbulan] and [Villanueva] have no possession over the subject parcel of land but they were with petitioners [Quizon] and [Zablan] when forcible entry was made leading to the ouster of [respondent's] possession and destruction [respondent's] plants. That [petitioner Quizon] house is outside the portion bought by [respondent] from [Nuguid].[8]

The appellate court further ruled that having voluntarily stipulated in the Pre-Trial Agreement that they forcibly

entered the subject property, petitioners can no longer deny the same. Once validly entered into, stipulations will not be set aside unless for good cause. The party who validly made them can be relieved therefrom only upon showing of collusion, duress, fraud, misrepresentation as to facts, undue influence or such other sufficient cause as will serve justice in a particular case. There is no showing in this case of any cause or ground which could be the basis for relieving petitioners of the quicksand of admission which they voluntarily wallowed into. According to the decretal portion of the Court of Appeals Decision:

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.[9]

In a Resolution dated 24 January 2006, the Court of Appeals denied the Motion for Reconsideration interposed by petitioners, for it raised the same issues which were already considered and passed upon by the appellate court in its assailed Decision.

Petitioners are now before this Court via the Petition at bar raising the sole issue of whether the Court of Appeals erred in affirming the RTC Decision dated 16 November 2001, awarding possession of the subject property to respondent.

Section 1, Rule 70[10] of the Revised Rules of Court requires that in actions for forcible entry, the plaintiff must allege that he has been deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth and the action must have been filed within one year from the time of such unlawful deprivation of possession. This requirement implies that in such cases, the possession of the land by the defendant is unlawful from the beginning, as he acquires possession thereof by unlawful means. The plaintiff must allege and prove that he was in prior physical possession of the property in litigation until he was deprived thereof by the defendant.[11]

In *Cajayon v. Batuyong*,[12] this Court elucidated:

x x x [T]he complaint must allege that one in physical possession of a land or building has been deprived of that possession by another through force, intimidation, threat, strategy or stealth. It is not essential, however, that the complaint should expressly employ the language of the law. It would be sufficient that facts are set up showing that dispossession took place under said conditions.

The words "by force, intimidation, threat, strategy or stealth" include every situation or condition under which one person can wrongfully enter upon real property and exclude another, who has had prior possession thereof. To constitute the use of "force" as contemplated in the above-mentioned provision, the trespasser does not have to institute a state of war. Nor is it even necessary that he use violence against the person of the party in possession. The act of going on the property and excluding the lawful possessor therefrom necessarily implies the exertion of force over the property, and this is all that is necessary.

Hence, in actions for forcible entry, two allegations are mandatory for the municipal court to acquire jurisdiction. First, the plaintiff must allege his prior physical possession of the property. Second, he must also allege that he was deprived of his possession by any of the means provided for in Section 1, Rule 70 of the Revised Rules of Court, namely: force, intimidation, threats, strategy, and stealth.

There is no dispute that respondent sufficiently alleged in her complaint the material facts constituting forcible entry, as she explicitly claimed that she had prior possession of the subject property since its purchase, and upon it built a wooden fence. She also particularly described in her Complaint how petitioners encroached upon the subject property and dispossessed her of the same. Respondent's complaint contains the allegations that petitioners, abetting and conspiring with one another, without respondent's knowledge and consent and through the use of force and intimidation, entered a portion of her land; thereafter pulled out and destroyed the fence she had erected, including the fruit-bearing trees planted thereon; and put their own iron fence enclosing an area of about one hectare. Petitioners Quizon and Zablan then purportedly took possession and control of the subject

property up to the time Civil Case No. 2207 was filed with the MCTC. It is thus irrefutable that respondent sufficiently alleged that the possession of the subject property was wrested from her through violence and force.

However, despite the sufficiency of her complaint, respondent miserably failed to prove her allegations therein, most significantly the fact of her prior possession. Allegation is not tantamount to proof.[13] It must be stressed that one who alleged a fact has the burden of proving it.[14] And mere allegation without supporting evidence is not sufficient to establish a prima facie case of prior physical possession.

We emphasize that absence of prior physical possession by the plaintiff in a forcible entry case warrants the dismissal of his complaint.[15]

In a long line of cases,[16] this Court reiterated that the fact of prior physical possession is an indispensable element in forcible entry cases. The plaintiff must prove that they were in prior physical possession of the premises long before they were deprived thereof by the defendant.[17]

Possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right.[18] Possession can be acquired by juridical acts. "These are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, x x x execution and registration of public instruments, and the inscription of possessory information titles." For one to be considered in possession, one need not have actual or physical occupation of every square inch of the property at all times.[19]

During the ocular inspection, the MCTC had the opportunity to inquire from Nuguid the location of the land he supposedly sold to respondent. Upon Nuguid's representation, the court found that the lot upon which the two adjacent houses of petitioner Quizon stood was not included in the property Nuguid sold to respondent. On the same occasion, the MCTC also learned that petitioners Quizon and Zablan were already occupying the subject premises long before the alleged sale between respondent and Nuguid took place. It was based on the aforementioned finding that the MCTC dismissed Civil Case No. 2207 for failure of respondent to establish prior physical possession of the subject property.

The findings of the RTC and the Court of Appeals were largely anchored on the stipulation of facts, made during the Pre-Trial Conference, that petitioners Simbulan and Villanueva were with petitioners Quizon and Zablan when the latter two forcibly entered the subject property and destroyed respondent's plants. This is implying too much from a poorly worded stipulation of facts. If petitioners already did admit to having forcibly entered the subject property, then there would have been no more need for a trial. The reasonable interpretation of such stipulation of facts at the pre-trial would be that petitioners Simbulan and Villanueva were with petitioners Quizon and Zablan when the latter two purportedly destroyed the fence and plants of respondent found on the subject property, and surrounded the subject property with an iron fence. Far from being an admission by the petitioners that respondent had prior possession of the subject property, petitioners' actuations are only consistent with the claim of petitioners Quizon and Zablan that they were already in possession of the subject property and they were only protecting the same from respondent's repeated attempts to appropriate it to herself.

Based on the foregoing, it is clear that there was no ouster or dispossession that took place in the instant case. Petitioner Quizon's material possession of the subject property preceded the alleged sale between respondent and Nuguid. It was never proven that the subject property occupied by petitioners Quizon and Zablan encroached upon or overlapped the property bought by respondent from Nuguid. Quite interesting, was the testimony of Nuguid, a disinterested party, who had competent knowledge of the metes and bounds of the property he ceded via sale to respondent. The testimony undeniably established that the property subject of said sale is different from the subject property possessed and occupied by petitioner Quizon.

This Court will not disturb the findings of the MCTC, which had the opportunity to physically inspect the subject property, and personally hear the witnesses and examine their demeanor in the course of the hearing. It is worthy to note that the appellate court should only delve into a recalibration of the evidence on appeal if the findings of the trial court are not anchored on the witnesses' credibility and testimonies, but on the assessment of the documents that are available to appellate magistrates and subject to their scrutiny.[20] Regrettably, the instant case does not fall under this exception.

Verily, petitioners Quizon and Zablan's possession of the subject property cannot be disturbed. We have long settled that the only question that the courts must resolve in ejectment proceedings is - who is entitled to the physical possession of the premises, that is, to the possession de facto and not to the possession de jure? Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession.[21]

Hence, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to settle in an ejectment suit is the right to physical possession.[22] While it may be true that the issue of ownership may incidentally be looked into in an ejectment case to determine who has a better right to possession,[23] yet, it is crystal clear in this case that the issue of ownership over the subject property has not been seriously and successfully intertwined with the issue of possession. It has definitely been established by the testimony of Nuguid, the vendor of the property, and by ocular inspection of the MCTC of Capas, Tarlac, that the subject land is outside or not part of the lot sold to respondent.

WHEREFORE, premises considered, the instant Petition is GRANTED. The Decision dated 15 March 2005 of the Court of Appeals and its Resolution dated 24 January 2006 in CA-G.R. SP No. 72921 are hereby REVERSED and SET ASIDE. The Decision dated 14 March 2001 of the Municipal Circuit Trial Court of Capas Tarlac, in Civil Case No. 2207, dismissing respondent's complaint for ejectment is hereby REINSTATED. Costs against respondent Laniza D. Juan.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Reyes, and Brion, JJ., concur.

[*] Per Special Order No. 507, dated 28 May 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justice Arturo D. Brion to replace Associate Justice Antonio Eduardo B. Nachura, who is on official leave under the Court's Wellness Program.

[1] Rollo, pp. 14-24.

[2] Penned by Associate Justice Roberto A. Barrios with Associate Justices Amelita G. Tolentino and Vicente S.E. Veloso, concurring. Rollo, pp. 41-47.

[3] Rollo, pp. 53-54.

[4] Id. at 38-39.

[5] Id. at 25-31.

[6] Id. at 31.

[7] Id. at 36-37.

[8] Id. at 44.

[9] Id. at 45.

[10] 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.

[11] *Spouses Ong v. Parel*, 407 Phil. 1045, 1053 (2001).

[12] G.R. No. 149118, 16 February 2006, 482 SCRA 461, 471-472.

[13] *V.V. Soliven Realty Corporation v. Ong*, G.R. No. 147869, 26 January 2005, 449 SCRA 339, 347.

[14] *Machica v. Roosevelt*, G.R. No. 168664, 4 May 2006, 489 SCRA 534, 544.

[15] *Sps. Gaza v. Lim*, 443 Phil. 337, 349 (2003).

[16] *Habagat Grill v. DMC-Urban Property Developer, Inc.*, G.R. No. 155110, 31 March 2005, 454 SCRA 653; *Sps. Gaza v. Lim*, id.

[17] *Sps. Gaza v. Lim*, id. at 348-349.

[18] *Spouses Benitez v. Court of Appeals*, 334 Phil 216, 222 (1997).

[19] *Habagat Grill v. DMC-Urban Property Developer, Inc.*, supra note 16 at 671.

[20] *Jimenez v. Commission on Ecumenical Mission, United Presbyterian Church, USA*, 432 Phil. 895, 906 (2002).

[21] *Pajuyo v. Court of Appeals*, G.R. No. 146364, 3 June 2004, 430 SCRA 492, 510.

[22] Id. at 510-511.

[23] *Aquino v. Aure*, G.R. No. 153567, 18 February 2008.

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