

PRECY BUNYI AND MILA BUNYI, PETITIONERS, VS. FE S. FACTOR, RESPONDENT.*G.R. No. 172547. June 30, 2009*

Ponente: QUISUMBING, J.

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For review on certiorari are the Decision[1] dated January 16, 2006 and Resolution[2] dated April 26, 2006 of the Court of Appeals in CA-G.R. SP No. 90397, which had affirmed the Decision[3] dated March 7, 2005 of the Regional Trial Court (RTC) of Las Piñas City, Branch 198 in Civil Case No. LP-04-0160.

The antecedent facts are as follows:

Respondent Fe S. Factor is one of the co-owners of an 18-hectare piece of land located in Almanza, Las Piñas City. The ownership of the land originated from respondent's paternal grandparents Constantino Factor and Maura Mayuga-Factor who had been in actual, continuous, peaceful, public, adverse and exclusive possession and occupation of the land even before 1906.[4]

On December 9, 1975, the children of Constantino Factor and Maura Mayuga-Factor filed a Petition for Original Registration and Confirmation of Imperfect Title to the said parcel of land, or Lots 1, 2, 3 and 4 of Psu-253567, before the RTC of Pasig City, Branch 71.[5] On December 8, 1994, the trial court granted the petition in LRC Case No. N-9049 and declared the children of Constantino Factor and Maura Mayuga-Factor as co-owners of the property.[6] The children of Constantino Factor and Maura Mayuga-Factor thereafter sold seven (7) hectares of the Factor family property during the same year. The siblings, except Enrique Factor, respondent's father, shared and divided the proceeds of the sale among themselves, with the agreement that Enrique would have as his share the portion of the property located in Antioch Street, Pilar Executive Village, Almanza I, Las Piñas City, known as the Factor compound.

Following his acquisition thereof, Enrique caused the construction of several houses in the compound including the subject property, a rest house, where members of the Factor family stayed during get-togethers and visits.[7] Petitioners Precy Bunyi and her mother, Mila Bunyi, were tenants in one of the houses inside the compound, particularly in No. 8 Antioch St., Pilar Village, Almanza, Las Piñas City since 1999.[8]

When Enrique Factor died on August 7, 1993, the administration of the Factor compound including the subject rest house and other residential houses for lease was transferred and entrusted to Enrique's eldest child, Gloria Factor-Labao.

Gloria Factor-Labao, together with her husband Ruben Labao and their son Reggie F. Labao, lived in Tipaz, Taguig, Metro Manila but visited and sometimes stayed in the rest house because Gloria collected the rentals of the residential houses and oversaw the Factor compound. When Gloria died on January 15, 2001, the administration and management of the Factor compound including the subject rest house, passed on to respondent Fe S. Factor as co-owner of the property. As an act of goodwill and compassion, considering that Ruben Labao

was sickly and had no means of income, respondent allowed him to stay at the rest house for brief, transient and intermittent visits as a guest of the Factor family.

On May 31, 2002, Ruben Labao married petitioner Precy Bunyi. On November 10, 2002, Ruben Labao died.

At about this time, respondent discovered that petitioners forcibly opened the doors of the rest house and stole all the personal properties owned by the Factor family and then audaciously occupied the premises. Respondent alleged that petitioners unlawfully deprived her and the Factor family of the subject property's lawful use and possession. Respondent also added that when she tried to enter the rest house on December 1, 2002, an unidentified person who claimed to have been authorized by petitioners to occupy the premises, barred, threatened and chased her with a jungle bolo. Thus, on September 12, 2003, respondent Fe S. Factor filed a complaint[9] for forcible entry against herein petitioners Precy Bunyi and Mila Bunyi.

Petitioners, for their part, questioned Fe's claim of ownership of the subject property and the alleged prior ownership of her father Enrique Factor. They asserted that the subject property was owned by Ruben Labao, and that petitioner Precy with her husband moved into the subject property, while petitioner Mila Bunyi, mother of Precy, remained in No. 8 Antioch St.

On July 13, 2004, the Metropolitan Trial Court (MeTC) of Las Piñas City, Branch 79 ruled in favor of Fe S. Factor. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the latter and all persons claiming rights under them to:

- To immediately vacate the subject premises and surrender possession thereof to the plaintiff.
- To pay the monthly rental of P2,000.00 from December 1, 2002 up to the time they finally vacate the premises.
- To pay attorney's fee of Php 10,000.00.

The counter-claim is dismissed for lack of merit.

SO ORDERED.[10]

Petitioners appealed the decision to the RTC of Las Piñas City, Branch 198, which, however, affirmed in toto the decision of the MeTC and later denied their motion for reconsideration.[11] Undaunted, petitioners filed a petition for review before the Court of Appeals but it was denied also. Hence, the instant petition before us.

Petitioners submit the following issues for the Court's consideration:

I.

[WHETHER] THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN LAW AND JURISPRUDENCE WHEN IT AFFIRMED THE DECISION OF THE REGIONAL TRIAL COURT THAT FORCE, THREAT, INTIMIDATION AND STEALTH HAD BEEN COMMITTED BY THE PETITIONERS IN OCCUPYING THE SUBJECT RESIDENTIAL HOUSE;

II.

[WHETHER] THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT MISAPPRECIATED THE FACT THAT THE RESPONDENT HAS A BETTER RIGHT OF PHYSICAL AND MATERIAL POSSESSION OF THE SUBJECT PROPERTY;

III.

[WHETHER] THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE FINDING OF THE REGIONAL [TRIAL] COURT HOLDING PETITIONERS LIABLE TO PAY THE MONTHLY RENTAL OF P2,000.00 FROM DECEMBER 1, 2002 UP TO THE TIME THEY FINALLY VACATE PREMISES.[12]

The resolution of the first issue raised by petitioners requires us to inquire into the sufficiency of the evidence presented below, a course of action which this Court will not do, consistent with our repeated holding that the Supreme Court is not a trier of facts.[13] The resolution of factual issues is the function of lower courts, whose findings on these matters are received with respect and considered binding by the Supreme Court subject only to certain exceptions, none of which is present in the instant petition.[14] Noteworthy, in this case, the cited findings of the RTC have been affirmed by the Court of Appeals.

As to the second issue, the resolution thereof boils down to a determination of who, between petitioners and respondent, would be entitled to the physical possession of the subject property.

Both parties anchor their right of material possession of the disputed property on their respective claims of ownership. Petitioners insist that petitioner Precy has a better right of possession over the subject property since she inherited the subject property as the surviving spouse and sole heir of Ruben Labao, who owned the property before his death.

Respondent, on the other hand, hinges her claim of possession on the fact that her predecessor-in-interest had prior possession of the property as early as 1975.

After careful consideration, we find in favor of the respondent.

In ejectment cases, the only issue for resolution is who is entitled to the physical or material possession of the property involved, independent of any claim of ownership set forth by any of the party-litigants. The one who can prove prior possession de facto may recover such possession even from the owner himself.[15] Possession de facto is the physical possession of real property. Possession de facto and not possession de jure is the only issue in a forcible entry case.[16] This rule holds true regardless of the character of a party's possession, provided, that he has in his favor priority of time which entitles him to stay on the property until he is lawfully ejected by a person having a better right by either accion publiciana or accion reivindicatoria.[17]

Petitioners argue that respondent was never in possession of the subject property since the latter never occupied the same. They claim that they have been in actual possession of the disputed property from the time petitioner Precy married Ruben Labao in 2002.

In this instance, however, petitioners' contention is unconvincing.

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.[18] 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.[19] 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, execution and registration of public instruments, and the inscription of possessory information titles.[20]

While petitioners claim that respondent never physically occupied the subject property, they failed to prove that they had prior possession of the subject property. On record, petitioner Precy Bunyi admitted that Gloria Factor-Labao and Ruben Labao, as spouses, resided in Tipaz, Taguig, Metro Manila and used the subject property whenever they visit the same.[21] Likewise, as pointed out by the MeTC and the RTC, Ruben and petitioner Precy's marriage certificate revealed that at the time of their marriage, Ruben was residing at 123 A. Lake St., San

Juan, Metro Manila. Even Ruben's death certificate showed that his place of death and residence was at #4 Labao St., Tipaz, Taguig, Metro Manila. Considering that her husband was never a resident of the subject property, petitioner Precy failed to explain convincingly how she was able to move in with Ruben Labao in the subject property during their marriage.

On the other hand, it was established that respondent's grandparents, Constantino Factor and Maura Mayuga-Factor, had been the occupants and in possession of various agricultural parcel of lands situated in Almanza, Las Piñas City, in the concept of owners, for more than thirty years prior to 1975. In fact, the RTC in its Decision dated December 8, 1994 in LRC Case No. N-9049 has confirmed the rights of respondent's predecessors over the subject property and ordered the issuance of the corresponding certificate of title in their favor.[22]

The right of respondent's predecessors over the subject property is more than sufficient to uphold respondent's right to possession over the same. Respondent's right to the property was vested in her along with her siblings from the moment of their father's death.[23] As heir, respondent had the right to the possession of the property, which is one of the attributes of ownership. Such rights are enforced and protected from encroachments made or attempted before the judicial declaration since respondent acquired hereditary rights even before judicial declaration in testate or intestate proceedings.[24]

After the death of Enrique Factor, it was his eldest child, Gloria Factor-Labao who took over the administration of the subject property. And as a consequence of co-ownership,[25] soon after the death of Gloria, respondent, as one of the surviving co-owners, may be subrogated to the rights of the deceased co-owner, which includes the right to the administration and management of the subject property.

As found by the Court of Appeals, petitioners' unsupported claim of possession must yield to that of the respondent who traces her possession of the subject property to her predecessors-in-interest who have always been in possession of the subject property. Even assuming that respondent was never a resident of the subject property, she could legally continue possessing the property. Visiting the property on weekends and holidays is evidence of actual or physical possession.[26] The fact of her residence somewhere else, by itself, does not result in loss of possession of the subject property. The law does not require one in possession of a house to reside in the house to maintain his possession.[27] For, again, possession in the eyes of the law does not mean that a man has to have his feet on every square meter of the ground before he is deemed in possession.[28] There is no cogent reason to deviate from this doctrine.

All things considered, this Court finds that respondent Fe S. Factor successfully proved the extent and character of her possession over the disputed property. As a consequence of her ownership thereof, respondent is entitled to its possession, considering petitioners' failure to prove prior possession. The Court stresses, however, that its determination of ownership in the instant case is not final. It is only a provisional determination for the sole purpose of resolving the issue of possession. It would not bar or prejudice a separate action between the same parties involving the quieting of title to the subject property.[29]

As regards the means upon which the deprivation took effect, it is not necessary that the respondent must demonstrate that the taking was done with force, intimidation threat, strategy or stealth. The Supreme Court, in *Bañes v. Lutheran Church in the Philippines*,[30] explained:

In order to constitute force that would justify a forcible entry case, the trespasser does not have to institute a state of war. The act of going to the property and excluding the lawful possessor therefrom necessarily implies the exertion of force over the property which is all that is necessary and sufficient to show that the action is based on the provisions of Section 1, Rule 70 of the Rules of Court.[31]

As expressly stated in *David v. Cordova*: [32]

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 therefrom. If a trespasser enters upon land in open daylight, under the very eyes of the person already clothed with lawful possession, but without the consent of the latter, and there plants himself and excludes such prior possessor from the property, the action of forcible entry and detainer can unquestionably be maintained, even though no force is used by the trespasser other than such as is necessarily implied from the mere acts of planting himself on the ground and excluding the other party.[33]

Respondent, as co-owner, has the control of the subject property even if she does not stay in it. So when petitioners entered said property without the consent and permission of the respondent and the other co-owners, the latter were deprived of its possession. Moreover, the presence of an unidentified man forbidding respondent from entering the subject property constitutes force contemplated by Section 1,[34] Rule 70 of the Rules of Court.

As to the last issue, we have previously ruled that while the courts may fix the reasonable amount of rent for the use and occupation of a disputed property, they could not simply rely on their own appreciation of land values without considering any evidence. The reasonable amount of any rent could not be determined by mere judicial notice but by supporting evidence.[35] In the instant case, we find no evidence on record to support the MeTC's award of rent.

On the matter of attorney's fees awarded to the respondent, we are in agreement to delete it. It is a well-settled rule that where attorney's fees are granted, the court must explicitly state in the body of the decision, and not only in the dispositive portion thereof, the legal reason for the award.[36] Again, nothing in the body of both decisions of RTC and MeTC explicitly stated the reasons for the award of attorney's fees.

WHEREFORE, the instant petition is DENIED. The challenged Decision dated January 16, 2006 and Resolution dated April 26, 2006 of the Court of Appeals in CA-G.R. SP No. 90397 are AFFIRMED with MODIFICATION that the award of rentals and attorney's fees are DELETED.

No pronouncement as to costs.

SO ORDERED.

LEONARDO A. QUISUMBING

Associate Justice

WE CONCUR:

Ynares-Santiago[*], Chico-Nazario[**], Brion, and Peralta[***], JJ., concur.

[*] Designated member of the Second Division per Special Order No. 645.

[**] Designated member of the Second Division per Special Order No. 658.

[***] Designated member of the Second Division per Raffle of June 17, 2009.

[1] Rollo, pp. 59-67. Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Godardo A. Jacinto and Vicente Q. Roxas concurring.

[2] Id. at 68.

[3] Id. at 278-284. Penned by Judge Erlinda Nicolas-Alvaro.

[4] Id. at 279.

[5] Id.

[6] CA rollo, pp. 210-217. Penned by Judge Celso D. Laviña.

[7] Rollo, p. 279.

[8] CA rollo, p. 18.

[9] Rollo, pp. 69-74.

[10] Id. at 126.

[11] Id. at 278-284, 310.

[12] Id. at 21-22.

[13] Far East Bank & Trust Co. v. Court of Appeals, G.R. No. 123569, April 1, 1996, 256 SCRA 15, 18.

[14] Id.

[15] Somodio v. Court of Appeals, G.R. No. 82680, August 15, 1994, 235 SCRA 307, 311.

[16] See Reyes v. Sta. Maria, No. L-33213, June 29, 1979, 91 SCRA 164, 168.

[17] Somodio v. Court of Appeals, supra at 311-312.

[18] Habagat Grill v. DMC-Urban Property Developer, Inc., G.R. No. 155110, March 31, 2005, 454 SCRA 653, 671; Quizon v. Juan, G.R. No. 171442, June 17, 2008, 554 SCRA 601, 612.

[19] Habagat Grill v. DMC-Urban Property Developer, Inc., supra at 671, citing Spouses Benitez v. Court of Appeals, 334 Phil. 216, 222 (1997); Quizon v. Juan, supra at 612.

[20] Quizon v. Juan, supra at 612.

[21] Rollo, pp. 29-30.

[22] CA rollo, pp. 215-217.

[23] See Morales, et al. v. Yañez, 98 Phil. 677, 678-679 (1956).

[24] Id.

[25] CIVIL CODE,

Art. 484. There is co-ownership whenever the ownership of an undivided thing or right belongs to different persons.

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[26] Dela Rosa v. Carlos, G.R. No. 147549, October 23, 2003, 414 SCRA 226, 234.

[27] Id.

[28] Id. at 235. See also Roales v. Director of Lands, 51 Phil. 302, 304 (1927).

[29] Booc v. Five Star Marketing Co., Inc., G.R. No. 157806, November 22, 2007, 538 SCRA 42, 55.

[30] G.R. No. 142308, November 15, 2005, 475 SCRA 13.

[31] Id. at 34.

[32] G.R. No. 152992, July 28, 2005, 464 SCRA 384.

[33] Id. at 399-400.

[34] 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.

[35] See *Badillo v. Tayag*, G.R. Nos. 143976 and 145846, April 3, 2003, 400 SCRA 494, 507, citing *Herrera v. Bollos*, G.R. No. 138258, January 18, 2002, 374 SCRA 107, 113.

[36] *Del Rosario v. Court of Appeals*, G.R. No. 118325, January 29, 1997, 267 SCRA 158, 175, citing *Scott Consultants & Resource Development Corporation, Inc. v. Court of Appeals*, G.R. No. 112916, March 16, 1995, 242 SCRA 393, 406.

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