NENITA QUALITY FOODS CORPORATION, PETITIONER, VS. CRISOSTOMO GALABO ADELAIDA GALABO, AND ZENAIDA GALABO-ALMACHAR, RESPONDENTS.

G.R. No. 174191. January 30, 2013

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for review on certiorari[1] of petitioner Nenita Quality Foods Corporation (NQFC) to nullify the February 2006 decision[2] and the July 13, 2006 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 77006. The CA reversed the decision[4] of the Regional Trial Court (RTC) of Davao City, Branch 17, which affirmed in toto the decision[5] of the Municipal Trial Court in Cities (MTCC), Davao City, Branch 5, in Civil Case No. 10,958-E-01. The MTCC dismissed the complaint for forcible entry and damages, which respondents Crisostomo Galabo, Adelaida Galabo, and Zenaida Galabo-Almachar filed against NQFC.

The Factual Antecedents
The dispute in the case relates to the possession of a parcel of land described as Lot No. 102, PSD-40060, the former Arakaki Plantation in Marapangi, Toril, Davao City with an area of six thousand seventy-four square meters (6,074 sq. m.).

As the CA summarized in the assailed decision, the respondents are the heirs of Donato Galabo. In 1948, Donato obtained Lot No. 722, Cad-102, a portion of the Arakaki Plantation in Marapangi, Toril, Davao City, owned by National Abaca and Other Fibers Corporation. Donato and the respondents assumed that Lot No. 722 included Lot No. 102, per the original survey of 1916 to 1920.

When the Board of Liquidators (BOL) took over the administration of the Arakaki Plantation in the 1950s, it had Lot No. 722 resurveyed. Allegedly, the resurvey did not include Lot No. 102; thus, when Donato acquired Transfer Certificate of Title No. T-21496[6] for Lot No. 722 on April 26, 1953, Lot No. 102 was not included. The respondents, however, continue to posses, occupy and cultivate Lot No. 102.

When NQFC opened its business in Marapangi, Toril, Davao City in the late 1950s, it allegedly offered to buy Lot No. 102. Donato declined and to ward off further offers, put up “Not For Sale” and “No Trespassing” signs on the property. In the 1970s, Crisostomo fenced off the entire perimeter of Lot No. 102 and built his house on it.

On August 19, 1994, the respondents received a letter from Santos Nantin demanding that they vacate Lot No. 102. Santos claimed ownership of this lot per the Deed of Transfer of Rights (Deed of Transfer)[7] dated July 10, 1972, which the respondents and their mother allegedly executed in Santos’ favor. The respondents denied this claim and maintained that they had been occupying Lot No. 102, which the BOL itself recognized per its letters[8] and the Certification[9] dated April 12, 2000 confirming Donato as the long-time occupant and awardee of the property. To perfect their title, the respondents applied for free patent over Lot No. 102 on September 6, 2000.

On January 3, 2001 and again on a later date, NQFC’s workers, with armed policemen of Toril, Davao City,

entered by force Lot No. 102 to fence it. The respondents reported the entry to the authorities. On April 16, 2001, Crisostomo received a letter from NQFC's counsel demanding that he remove his house from Lot No. 102. NQFC subsequently removed the existing fence and cut down various trees that the respondents had planted on the property.

NQFC, for its part, claimed that Santos immediately occupied and possessed Lot No. 102 after he purchased it from the respondents in 1972 and declared it under his name for taxation purposes. Santos was also granted Free Patent over the property by the Bureau of Lands, and obtained Original Certificate of Title No. (OCT) P-4035[10] on June 18, 1974. On December 29, 2000, the heirs of Santos conveyed Lot No. 102 to NQFC via the Deed of Absolute Sale[11] of even date. NQFC then filed a petition for cancellation of the respondents' patent application over Lot No. 102, which the BOL-Manila granted on April 19, 2001, on the ground that Donato failed to perfect his title over Lot No. 102 which has long been titled in Santos' name.

When conciliation failed, the respondents filed on September 17, 2001 a complaint[12] for forcible entry with damages before the MTCC against NQFC, alleging that: (1) they had been in prior physical possession of Lot No. 102; and (2) NQFC deprived them of possession through force, intimidation, strategy, threats and stealth.

The Ruling of the MTCC

Relying on the ruling of the BOL-Manila, the MTCC dismissed the respondents' complaint,[13] explaining that the questions raised before it required technical determination by the administrative agency with the expertise to determine such matters, which the BOL-Manila did in this case.[14]

The MTCC held that the pieces of evidence NQFC presented – theDeed of Transfer the respondents executed in Santos' favor, Santos' OCT P-4035 over Lot No. 102, the Deed of Absolute Sale in NQFC's favor, and the findings of the BOL-Manila – established NQFC's rightful possession over the property. It further held that: (1) the respondents relinquished their rights over Lot No. 102 when they executed the Deed of Transfer in Santos' favor; (2) the certificate of title over Lot No. 102 in Santos' name shows that he was in actual physical possession since actual occupation is required before an application for free patent can be approved; and (3) NQFC validly acquired ownership over Lot No. 102 when it purchased it from Santos, entitling it to the right, among others, to possess the property as ancillary to such ownership.

The Ruling of the RTC

The respondents appealed the MTCC decision to the RTC but the latter court denied the appeal.[15] As the MTCC did, the RTC relied on the findings of the BOL-Manila. It held that: (1) the respondents failed to perfect whatever right they might have had over Lot No. 102; and (2) they are estopped from asserting any right over Lot No. 102 since they have long transferred the property and their right thereto, to Santos in 1972.

In resolving the issue of possession of Lot No. 102, the RTC also resolved the question of ownership, as justified under the Rules, explaining that the NQFC's possession of Lot No. 102 was anchored on a Deed of Absolute Sale, while that of the respondents was based merely on the allegation of possession and occupation by Donato, and not on any title.[16]

Thus, the question of concurrent possession of Lot No. 102 between NQFC and the respondents should tilt in NQFC's favor.

When the RTC denied the respondents' motion for reconsideration in an order[17] dated March 5, 2003, the respondents elevated their case to the CA via a petition for review.[18]

The Ruling of the CA

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The respondents claimed before the CA that the RTC erred when it held that NQFC had prior possession of Lot No. 102, based solely on its Deed of Absolute Sale. They argued, among others, that: (1) Santos should have taken the necessary steps to oust the respondents had he been in possession of Lot No. 102 beginning 1972; (2) Santos could not have validly obtained title over Lot No. 102 since it was still in the name of the Republic of the Philippines (Republic) as of 1980;[19] and (3) NQFC no longer had to forcibly evict the respondents in January 2001 if it had been in possession of Lot No. 102 after it bought this land from Santos in 2000.

The CA found reversible error in the RTC's decision; thus, it granted the respondents' petition and ordered NQFC to vacate Lot No. 102. The CA explained that a plaintiff, in a forcible entry case, only has to prove prior material and physical possession of the property in litigation and undue deprivation of it by means of force, intimidation, threat, strategy or stealth. These, the respondents averred in the complaint and sufficiently proved, thus entitling them to recover possession of Lot No. 102. Relying on the doctrine of presumption of regularity in the performance of official duty, the CA especially took note of the letters and the Certification which the BOL sent to the respondents acknowledging Donato as the awardee of Lot No. 102 and the respondents as the actual occupants and possessors.

In brushing aside the RTC's findings, the CA ruled that: (1) Donato's failure to perfect his title over Lot No. 102 should not weigh against the respondents as the issue in a forcible entry case is one of possession de facto and not of possession de jure; and (2) NQFC's ownership of Lot No. 102 is beside the point as ownership is beyond the purview of an ejectment case. The title or right of possession, it stressed, is never an issue in a forcible entry suit. The CA, however, denied the respondents' prayer for moral damages and attorney's fees, and rejected the other issues raised for being irrelevant.

In its July 13, 2006 resolution,[20] the CA denied NQFC's motion for reconsideration, prompting the NQFC's present recourse.

The Petition

NQFC argues that the CA erred in holding that the respondents had prior physical possession of Lot No. 102.[21] It claims that, first, in reversing the RTC findings, the CA relied solely on the letters and the Certification of the BOL,[22] which has been controverted by the following pieces of evidence, among others: (1) the Deed of Transfer that the respondents executed in favor of Santos; (2) the order of the Bureau of Lands approving Santos' patent application; (3) Santos' OCT P-4035; and (4) the Deed of Absolute Sale that Santos executed in favor of NQFC.

NQFC maintains that the Bureau of Lands would not have granted Santos' free patent application had he not been in possession of Lot No. 102 because continued occupation and cultivation, either by himself or by his predecessor-in-interest, of the property is a requirement for such grant under the Public Land Act. By the very definition of "occupy," Santos is therefore deemed to have possessed Lot No. 102 prior to 1974, the year his free patent application was granted,[23] and under the principle of tacking of possession, he is deemed to have had possession of Lot No. 102 not only from 1972, when the respondents transferred it to him, but also from the time Donato acquired the lot in 1948. Thus, Santos had no reason to oust the respondents since he had been in possession of Lot No. 102 beginning 1972, by virtue of the transfer.[24]

Second, the respondents had no documents to prove that they were in actual occupation and cultivation of Lot No. 102 – the reason they did not heed the BOL's request to perfect their title over it. Finally, citing jurisprudence,[25] NQFC argues that the RTC rightly ruled on the issue of its ownership over Lot No. 102 in deciding the issue of prior physical possession as the Rules allow this, by way of exception.[26]

The Case for Respondents

The respondents' arguments closely adhere to the CA's ruling. They argue that NQFC, rather than meeting the issues, focused on its alleged ownership of Lot No. 102 and the possession flowing out of its ownership. They deny ever meeting Santos and they maintain that their continued possession and occupation of Lot No. 102 belie this supposed sale. Even granting that this sale occurred, Santos could still not have acquired any right over Lot No. 102 for as of 1980, it was still in the name of the Republic.[27] Thus, they could not have transferred ownership of Lot No. 102 to Santos, and he cannot claim ownership of Lot No. 102 by reason of this sale.[28]

On the other hand, the respondents' open, continuous, exclusive, notorious and adverse possession of Lot No. 102 for three decades, coupled by a claim of ownership, gave them vested right or interest over the property.[29] This vested right is equivalent to an actually issued certificate of title so that the execution and delivery of the title is a mere formality. To say the least, NQFC did not have to send them a formal demand to vacate[30] and violently oust them from the premises had it been in actual possession of the property as claimed.[31]

Lastly, the respondents invoked the settled rule that the Court's jurisdiction in a Rule 45 petition is limited only to reviewing errors of law. NQFC failed to show misapprehension of facts in the CA's findings to justify a departure from this rule.[32]

The Court's Ruling

We first address the procedural issue raised. Resolving the contentions raised necessarily requires us to delve into factual issues, a course not proper in a petition for review on certiorari, for a Rule 45 petition resolves only questions of law, not questions of fact.[33] This rule is read with the equally settled dictum that factual findings of the CA are generally conclusive on the parties and are therefore not reviewable by this Court.[34]

By way of exception, we resolve factual issues when, as here, conflict attended the findings of the MTCC and of the RTC, on one hand, and of the CA, on the other. Of minor note, but which we deem important to point, the petition needlessly impleaded the CA, in breach of Section 4, Rule 45 of the Rules of Court.[35]

Substantively, the key issue this case presents is prior physical possession – whether NQFC had been in prior physical possession of Lot No. 102.

We rule in the negative.

First, on the reliance on the BOL letters and Certification and the CA's alleged disregard of NQFC's evidence. To prove prior physical possession of Lot No. 102, NQFC presented the Deed of Transfer, Santos' OCT P-4035, the Deed of Absolute Sale, and the Order of the Bureau of Lands approving Santos' free patent application. In presenting these pieces of evidence, NQFC is apparently mistaken as it may have equated possession that is at issue as an attribute of ownership to actual possession. The latter type of possession is, however, different from and has different legal implications than the former. While these documents may bear weight and are material in contests over ownership of Lot No. 102, they do not per se show NQFC's actual possession of this property.

We agree that ownership carries the right of possession, but the possession contemplated by the concept of ownership is not exactly the same as the possession in issue in a forcible entry case. Possession in forcible entry suits refers only to possession de facto, or actual or material possession, and not possession flowing out of ownership; these are different legal concepts[36] for which the law provides different remedies for recovery of possession.[37] As we explained in Pajuyo v. Court of Appeals,[38] and again in the more recent cases of Gonzaga v. Court of Appeals,[39] De Grano v. Lacaba,[40] and Lagazo v. Soriano,[41] the word "possession" in forcible entry suits refers to nothing more than prior physical possession or possession de facto, not possession de jure[42] or legal possession in the sense contemplated in civil law.[43] Title is not the issue,[44] and the absence of it "is not a ground for the courts to withhold relief from the parties in an ejectment case."[45]

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Thus, in a forcible entry case, “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.”[46] He cannot be ejected by force, violence or terror -- not even by its owners.[47] For these reasons, an action for forcible entry is summary in nature aimed only at providing an expeditious means of protecting actual possession.[48] Ejectment suits are intended to “prevent breach of x x x peace and criminal disorder and to compel the party out of possession to respect and resort to the law alone to obtain what he claims is his.”[49] Thus, lest the purpose of these summary proceedings be defeated, any discussion or issue of ownership is avoided unless it is necessary to resolve the issue of de facto possession.

We agree with the respondents that instead of squarely addressing the issue of possession and presenting evidence showing that NQFC or Santos had been in actual possession of Lot No. 102, the former merely narrated how it acquired ownership of Lot No. 102 and presented documents to this effect. Its allegation that Santos occupied Lot No. 102 in 1972 is uncorroborated. Even the tax declarations under Santos’ name are hardly of weight; “[t]ax declarations and realty tax payments are not conclusive proof of possession. They are merely good indicia of possession in the concept of owner”[50] but not necessarily of the actual possession required in forcible entry cases.

Section 1, Rule 70 of the Rules of Court provides when an action for forcible entry, and unlawful detainer, is proper:

> 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 ours; italics supplied]

Under this provision, for a forcible entry suit to prosper, the plaintiff must allege and prove: (1) prior physical possession of the property; and (2) unlawful deprivation of it by the defendant through force, intimidation, strategy, threat or stealth.[51] As in any civil case, the burden of proof lies with the complainants (the respondents in this case) who must establish their case by preponderance of evidence. In the present case, the respondents sufficiently alleged and proved the required elements.

To support its position, NQFC invokes the principle of tacking of possession, that is, when it bought Lot No. 102 from Santos on December 29, 2000, its possession is, by operation of law, tacked to that of Santos and even earlier, or at the time Donato acquired Lot No. 102 in 1948.

NQFC’s reliance on this principle is misplaced. True, the law[52] allows a present possessor to tack his possession to that of his predecessor- in-interest to be deemed in possession of the property for the period required by law. Possession in this regard, however, pertains to possession de jure and the tacking is made for the purpose of completing the time required for acquiring or losing ownership through prescription. We reiterate – possession in forcible entry suits refers to nothing more than physical possession, not legal possession.

The CA brushed aside NQFC’s argument on the respondents’ failure to perfect their title over Lot No. 102. It held that the issue in this case is not of possession de jure, let alone ownership or title, but of possession de facto. We agree with the CA; the discussions above are clear on this point.

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We agree, too, as we have indicated in passing above, that the issue of ownership can be material and relevant in resolving the issue of possession. The Rules in fact expressly allow this: Section 16, Rule 70 of the Rules of Court[53] provides that the issue of ownership shall be resolved in deciding the issue of possession if the question of possession is intertwined with the issue of ownership. But this provision is only an exception and is allowed only in this limited instance to determine the issue of possession and only if the question of possession cannot be resolved without deciding the issue of ownership.[54] Save for this instance, evidence of ownership is not at all material, as in the present case.[55]

As a final reiterative note, this Decision deals only with de facto possession and is without prejudice to an appropriate action for recovery of possession based on ownership.

WHEREFORE, in light of these considerations, we hereby DENY the petition; the decision dated February 22, 2006 and the resolution dated July 13, 2006 of the Court of Appeals in CA-G.R. SP No. 77006 are hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Dated September 7, 2006 and filed on September 11, 2006 under Rule 45 of the 1997 Rules of Civil Procedure; rollo, pp. 17-32.

[2] Penned by Associate Justice Rodrigo F. Lim, Jr., and concurred in by Associate Justices Teresita Dy-Liacco Flores, Romulo V. Borja, Ramon R. Garcia, and Ricardo R. Rosario; id. At 276-292.

[3] Id. At 39-42.

[4] Dated November 29, 2002. The case was docketed as Civil Case No. 29, 139-2002; id. At 143-151. Penned by Judge Renato A. Fuentes.

[5] Dated February 20, 2002; id. At 112-122. Penned by Presiding Judge Daydews D. Villamor.

[6] Id. at 167.

[7] Id. at 68-69.

[8] Id. at 65-66.

[9] Id. at 67.

[10] Id. at 71-73.

[11] Id. at 74-76.

[12] Id. at 43-52.

[13] Supra note 5.

[14] Id. at 118-119.

[15] Supra note 4.

[16] Id. at 147-148.

[17] Id. at 159.

[18] Under Rule 42 of the 1997 Rules of Civil Procedure; id. at 123-140.

[19] Id. at 77. See also the MTCC's findings; id. at 118-119.

[20] Supra note 3.

[21] Rollo, p. 23.

[22] Id. at 28-30.

[23] Id. at 27-28; cf. page 335.

[24] Id. at 334.

[25] Quoted portions of the Supreme Court ruling in Refugia v. Court of Appeals, G.R. No. 118284, July 5, 1996, 258 SCRA 347; id. at 30-31.

[26] Supra; cf. pp. 343-345.

[27] Supra note 19.

[28] Id. at 317-319.

[29] Id. at 319.

[30] Copy of the Notice to Vacate; id. at 188.

[31] Id. at 319-320.

[32] Id. at 320-321.

[33] See Dr. Seriña v. Caballero, 480 Phil. 277, 284 (2004); Go Ke Chong, Jr. v. Chan, G.R. No. 153791, August 24, 2007, 531 SCRA 72, 80-81, citing Barcenas v. Tomas, G.R. No. 150321, March 31, 2005, 454 SCRA 593, 606; and Lagazo v. Soriano, G.R. No. 170864, February 16, 2010, 612 SCRA 616, 620.

[34] Dr. Seriña v. Caballero, supra, at 284.

[35] SEC. 4. Contents of petition. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents[.] [italics supplied; emphasis ours] cf. Dela Cruz v. CA and Te, 539 Phil. 158, 169 (2006).

[36] Gonzaga v. Court of Appeals, G.R. No. 130841, February 26, 2008, 546 SCRA 532, 542.

[37] Ibid.

[38] G.R. No. 146364, June 3, 2004, 430 SCRA 492, 509-510.

[39] Supra note 36, at 540.

[40] G.R. No. 158877, June 16, 2009, 589 SCRA 148, 158-159, citing Gonzaga v. Court of Appeals, supra.

[41] Supra note 33, at 621, citing De Grano v. Lacaba, supra.

[42] See also Barrientos v. Rapal, G.R. No. 169594, July 20, 2011, 654 SCRA 165, 170-171, citing Carbonilla v. Abiera, G.R. No. 177637, July 26, 2010, 625 SCRA 461, 469.

[43] See De Grano v. Lacaba, supra note 40, at 159, citing Sps. Tirona v. Hon. Alejo, 419 Phil. 285, 298 (2001); cf. Lagazo v. Soriano, supra note 33, at 621.

[44] Heirs of Pedro Laurora v. Sterling Technopark III, G.R. No. 146815, April 9, 2003, 401 SCRA 181, 184; and Gonzaga v. Court of Appeals, supra note 36, at 541, citing Heirs of Pedro Laurora v. Sterling Technopark III, at 184.

[45] Muñoz v. Yabut, Jr., G.R. Nos. 142676 and 146718, June 6, 2011, 650 SCRA 344, 376, citing Pajuyo v. Court of Appeals, supra note 38.

[46] Pajuyo v. Court of Appeals, supra note 38, at 510-511, citing Rubio v. The Hon. Municipal Trial Court in Cities, 322 Phil. 179 (1996); and Antazo v. Doblada, G.R. No. 178908, February 4, 2010, 611 SCRA 586, 593, citing Pajuyo v. Court of Appeals, supra note 38.

[47] Heirs of Pedro Laurora v. Sterling Technopark III, supra note 44, at 185, citing Muñoz v. Court of Appeals, G.R. No. 102693, September 23, 1992, 214 SCRA 216; Joven v. Court of Appeals, G.R. No. 80739, August 20, 1992, 212 SCRA 700; German Management and Services, Inc. v. Court of Appeals, G.R. Nos. 76216 and 76217, September 14, 1989, 177 SCRA 495; and Supia and Batioco v. Quintero and Ayala, 59 Phil. 312 (1933).

[48] See Pajuyo v. Court of Appeals, supra note 38, at 511-512; David v. Cordova, 502 Phil 626, 645-646 (2005), citing Pajuyo v. Court of Appeals, at 511-512; and Pagadora v. Ilao, G.R. No. 165769, December 12, 2011, 662 SCRA 14, 29-30.

[49] Pajuyo v. Court of Appeals, supra, at 512.

[50] De Grano v. Lacaba, supra note 40, citing Estrella v. Robles, Jr., G.R. No. 171029, November 22, 2007, 538 SCRA 60, 74; and Ganila v. Court of Appeals, G.R. No. 150755, June 28, 2005, 461 SCRA 435.

[51] See Gonzaga v. Court of Appeals, supra note 36, at 540, citing Bejar v. Caluag, G.R. No. 171277, February 15, 2007, 516 SCRA 84, 91.

[52] Article 1138 of the Civil Code provides:

Art. 1138. In the computation of time necessary for prescription, the following rules shall be observed:

(1) The present possessor may complete the period necessary for prescription by tacking his possession to that of his grantor or predecessor in interest[.]

[53] SEC. 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. [emphasis ours]

[54] Payujo v. Court of Appeals, supra note 38, at 510.

[55] See de Grano v. Lacaba, supra note 40, at 159, citing Habagat Grill v. DMC-Urban Property Developer, Inc., G.R. No. 155110, March 31, 2005, 454 SCRA 653, 670; and Pajuyo v. CA, supra note 38.

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