

**SPOUSES EULOGIO N. ANTAZO AND NELIA C. ANTAZO,
PETITIONERS, VS. LEONIDES DOBLADA, DIOSDADO CELESTRA,
LEOPOLDO CELESTRA, FERDINAND CELESTRA, AND ROBERTO
DOBLADA, RESPONDENTS.**

G.R. No. 178908. February 04, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari of the Court of Appeals (CA) Decision[1] dated February 28, 2007 and Resolution[2] dated July 18, 2007, which affirmed the order directing petitioners to vacate the subject property.

The case arose from the following antecedents:

Respondents, Leonides Doblada, Diosdado Celestra, Leopoldo Celestra, Ferdinand Celestra, and Roberto Doblada, filed a complaint for forcible entry against petitioners, spouses Eulogio N. Antazo and Nelia C. Antazo. The complaint alleged that respondents have been in open and peaceful possession of a parcel of land, identified as Assessor's Lot Nos. 112 and 113, located in Barangay Pila-Pila, Binangonan, Rizal, with an area of, approximately, 551.87 square meters.[3]

Respondents narrated that, in May 2003, they received a letter from petitioners, through the Panganiban Law Office, informing them that the latter had bought the property. It was made to appear in the said letter that respondents forcibly took possession of the property from petitioners. Respondents replied that they could not have wrested possession of the property from petitioners, as they were in possession thereof and that, in fact, on June 11, 2003, petitioners evicted them therefrom, destroyed respondents' bamboo fence, and constructed a concrete perimeter fence thereon.[4]

In their Answer, petitioners admitted that they sent a letter to respondents through the Panganiban Law Office, but they denied that respondents had been in possession of the property since time immemorial. They averred that respondents failed to show their right to recover possession of the property. On the contrary, petitioners claimed that they are the ones entitled to possess the property considering that they purchased it from a certain Carmencita S. Anciano, registered it for taxation purposes in their names, and paid the real property tax thereon.

The records reveal that the subject property is part of the parcel of land owned by Eduardo Paralejas, respondents' great grandfather, who died in 1939. Paralejas had three daughters: Matea, Eufemia and Leoncia. On April 12, 1983, Eufemia and Atanacio Buesa, Matea's son, purportedly executed an Extradjudicial Settlement and Sale,[5] adjudicating to themselves the entire parcel of land and, at the same time, selling it to Guadalupe Morales Sevillano. The document bears the thumbprints of Eufemia and Atanacio, which, respondents claim, are not genuine. After Sevillano died on November 24, 1995, her sole heir, Carmencita S. Anciano, petitioners' predecessor-in-interest, executed a document, denominated as Sinumpaang Salaysay ng Paglilipat sa Sarili ng Mga Lupang Naiwan ng Namatay,[6] adjudicating to herself the properties that Sevillano left, which included the

subject property. On April 21, 2003, Anciano sold the subject property to petitioners.[7]

On July 2, 2004, the Municipal Trial Court (MTC) dismissed the complaint because respondents failed to prove by preponderance of evidence that they had prior possession of the subject property. The court a quo found that ownership and possession of the subject property was transferred to petitioners when they purchased the same from Anciano. [8]

On appeal, the Regional Trial Court (RTC) initially affirmed the MTC Decision.[9] Upon respondents' motion for reconsideration, the RTC, in an Order dated May 29, 2006, reversed its previous decision and ruled in favor of respondents, thus:

Wherefore, this Court reconsiders the Decision of Judge Bernelito R. Fernandez, dated August 18, 2005, and the Decision of the Municipal Trial Court of Binangonan dated July 2, 2004 is hereby reversed as follows:

- That the complaint which was dismissed by the Lower Court is hereby reinstated.
- That this Court finds that the plaintiffs-appellants were in prior possession of lot 112 and 113, subject of this case, before defendants-appellees Eulogio Antazo and Nelia Antazo forcibly seized possession of the aforementioned property from the plaintiffs-appellants.
- That defendants-appellees, Eulogio Antazo, and Nelia Antazo are hereby ordered to vacate lots 112, 113 situated at Barrio Pila-Pila, Binangonan, Rizal, covered by Tax Declaration No. 17-0765 consisting of 787.87 square meters.
- That there was a substantial compliance of the Katarungan Pambarangay Law.
- That the defendants-appellees are hereby ordered to pay 1,000.00 a month as reasonable compensation for the occupancy of the lots from the time they purchased the property on April 21, 2003 up to the present.
- The defendants-appellees are hereby ordered to pay attorney's fees in the amount of 20,000.00 pesos.
- To pay the costs of suit.

SO ORDERED.[10]

Petitioners moved for reconsideration, but the motion was denied by the RTC on August 1, 2006.[11]

Unrelenting, petitioners filed a petition for review with the CA. On February 28, 2007, the CA affirmed the RTC decision with modification, thus:

WHEREFORE, premises considered, the petition is DENIED. The assailed Orders are hereby AFFIRMED with MODIFICATION deleting the award of P1,000.00 as reasonable compensation for the use and occupation of the land from April 21, 2003 up to the present.

SO ORDERED.[12]

According to the CA, petitioners may not eject respondents from the subject property since it appears that, as between them, the latter had prior possession thereof. Assuming that petitioners have the legal title to the property and that respondents are mere usurpers thereof, the latter are nonetheless entitled to stay until they are lawfully ejected therefrom.[13] The CA also deleted the amount of reasonable compensation awarded to respondents for the use and occupation of the property, ratiocinating that the latter can recover only the damages they have sustained as mere possessors.[14]

Both petitioners and respondents moved for the partial reconsideration of the decision. In a Resolution dated July 18, 2007, the CA denied both motions.[15]

Petitioners filed this petition for review on certiorari, ascribing the following errors to the CA:

- THE COURT OF APPEALS ERRED IN NOT RULING THAT THE REGIONAL TRIAL COURT ERRED IN REVERSING ITS EARLIER DECISION DATED AUGUST 18, 2005 AND IN ORDERING THE EJECTMENT OF PETITIONERS FROM LOTS 112 AND 113;
- THE COURT OF APPEALS ERRED IN NOT RULING THAT PETITIONERS HAVE PRIORITY IN POSSESSION OF THE SUBJECT PROPERTY.[16]

Petitioners contend that respondents' claim is not supported by competent evidence. They aver that when they bought the property from Anciano, the latter transferred to them possession and ownership of the subject property. They point out that, after they purchased the property from Anciano, they declared it in their names for taxation purposes and paid real property tax thereon.

The petition is without merit.

Petitioners' argument is misplaced, considering that this is a forcible entry case. They are apparently referring to "possession" flowing from ownership of the property, as opposed to actual possession. In ejectment cases, possession means nothing more than actual physical possession, not legal possession in the sense contemplated in civil law.[17]

Prior physical possession is the primary consideration 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.[18] The party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror.[19]

We are convinced that respondents were in prior possession of the property and that petitioners deprived them of such possession by means of force.

In the Letter dated May 26, 2003, Atty. Jimmy R. Panganiban of Panganiban Law Office, on behalf of petitioners, wrote to respondents:

According to my clients, they bought the above-mentioned property from the true and absolute owner sometime in April 2003. Immediately upon the sale of said land in their favor, they took possession thereof in the concept of an owner. They reported to me that they are now fencing said property. They were surprise[d] that through force, violence, threat, strategy, and stealth you deprived them of possession. The saddest part of it is that you timed the deprivation after they have already paid a worker for one week fencing activity. They have already bought fencing construction materials such as gravel[,] sand, steel, wires, and others. They could not understand why you are doing this thing to them because they know that you have no legal basis [for] putting up a bamboo fence at the frontage portion of the said property.

Accordingly, FINAL DEMAND is hereby made upon all of you to remove the bamboo fence and to restore my clients' possession within five (5) days from receipt of this letter. If you [fail] to comply with this demand, I shall take it that I am at liberty to file an ejectment case against all of you in order to protect the rights and interests of my clients.[20]

The RTC correctly concluded that it would have been unnecessary to write the letter if petitioners were already in possession of the property. The contents of the letter are clear--petitioners are demanding that respondents restore possession of the property to them.

We also note that petitioners did not deny in their Answer respondents' allegation that they constructed a concrete fence on the subject property. Failure to specifically deny the allegation amounts to a judicial admission.

Unlawfully entering the subject property, erecting a structure thereon and excluding therefrom the prior possessor would necessarily imply the use of force. In order to constitute force, the trespasser does not have to institute a state of war.[21] No other proof is necessary.

While the Letter intimates that petitioners were in possession of the property prior to respondents and that the latter were the ones who forcibly evicted them therefrom, such statement is clearly self-serving and unsupported by other evidence. Verily, this information, assuming that it is true, is not relevant to the resolution of this case. This case involves respondents' cause of action against petitioners for evicting them from the subject property which was in their possession. It is immaterial how respondents came into such possession or by what right they did so. Even usurpers of land owned by another are entitled to remain on it until they are lawfully ejected therefrom.[22]

Granting that petitioners had earlier possession and respondents were the ones who first forcibly dispossessed them of the property, this circumstance would not have given petitioners license to recover possession in the same way. Such course of action is precisely what is sought to be avoided by the rule on ejectment. The underlying philosophy behind ejectment suits is to prevent breach of the 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. The party deprived of possession must not take the law into his own hands.[23] Petitioners would have had a right of action against respondents to file an ejectment suit, but they evidently let the chance pass and chose the easier and faster way. Unfortunately for them, this time, their opponents chose to resort to appropriate judicial measures.

WHEREFORE, the petition is DENIED DUE COURSE. The CA Decision dated February 28, 2007 and Resolution dated July 18, 2007 are AFFIRMED.

SO ORDERED.

Carpio[*], Corona, (Chairperson), Velasco, Jr., and Peralta, JJ., concur.

[*] Additional member in lieu of Associate Justice Jose Catral Mendoza per Special Order No. 818 dated January 18, 2010.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Vicente S.E. Veloso and Marlene Gonzales-Sison, concurring; rollo, pp. 21-32.

[2] Id. at 34-35.

[3] CA rollo, p. 60.

[4] Id. at 61.

[5] Id. at 44-46.

[6] Id. at 127-128.

[7] Id. at 76-77.

[8] Rollo, p. 46.

[9] Id. at 51.

[10] Id. at 56-57.

[11] CA rollo, p. 201.

[12] Rollo, p. 31.

[13] Id. at 27-29.

[14] Id. at 30.

[15] Id. at 35.

[16] Id. at 13.

[17] *Arbizo v. Santillan*, G.R. No. 171315, February 26, 2008, 546 SCRA 610.

[18] *Pajuyo v. Court of Appeals*, G.R. No. 146364, June 3, 2004, 430 SCRA 492, 510-511.

[19] Id. at 493.

[20] CA rollo, p. 137. (Emphasis supplied.)

[21] *Arbizo v. Santillan*, *supra* note 17, at 624-625.

[22] *Heirs of Pedro Laurora v. Sterling Technopark III*, G.R. No. 146815, April 9, 2003, 401 SCRA 181, 185.

[23] *Pajuyo v. Court of Appeals*, *supra* note 18, at 512.

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