

TEODORO S. TEODORO (DECEASED), SUBSTITUTED BY HIS HEIRS/SONS NELSON TEODORO AND ROLANDO TEODORO, PETITIONERS, VS. DANILO ESPINO, ROSARIO SANTIAGO, JULIANA CASTILLO, PAULINA LITA...

G.R. No. 189248. February 05, 2014

Ponente: PEREZ, J.

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PEREZ, J.:

We here have what appears to be a cut and dried case for ejectment which has, nonetheless, resulted in three conflicting and varying decisions of the lower courts. We exercise judicial restraint: we simply delineate the possessory rights of the warring parties and refrain from ruling on these squabbling heirs' respective claims of ownership.

This petition for review on certiorari under Rule 45 of the Rules of Court assails the Decision[1] of the Court of Appeals in CA-G.R. SP No. 99805 which reversed and set aside the Decision[2] of the Regional Trial Court (RTC) Branch 81, Malolos, Bulacan in Civil Case No. 634-M-06 which, in turn, vacated and set aside the Decision[3] of the Municipal Trial Court (MTC), Bulacan, Bulacan in Civil Case No. 1240. The case is for Forcible Entry filed by the predecessor-in-interest of petitioners Nelson and Rolando Teodoro, heirs of Teodoro S. Teodoro (Teodoro Teodoro), against respondents Danilo Espino, Rosario Santiago, Juliana Castillo, Paulina Litao, Raquel Rodriguez, Rufina dela Cruz and Leonila Cruz, a squabble for physical possession of a portion of a real property, the ownership of which is traceable to Genaro Teodoro (Genaro).

The subject property is a portion within Cadastral Lot No. 2476 with a total area of 248 square meters, covered by Tax Declaration No. 99-05003-0246, registered in the name of Genaro, long deceased ascendant of all the parties. The subject property pertains to the vacant lot where the old ancestral house of Genaro stood until its demolition in June 2004, at the instance of Teodoro Teodoro.

Genaro had five children: Santiago; Maria, from whom respondents descended and trace their claim of ownership and right of possession; Petra, Mariano, Teodoro Teodoro's father; and Ana. Genaro and his children are all deceased.

Respondents' respective parents are first cousins of Teodoro Teodoro. All parties are collateral relatives of Petra Teodoro: Teodoro Teodoro is her nephew while respondents are her grandnephews and grandnieces, descendants of Petra's sister, Maria Teodoro.

Of all Genaro's children, only Petra occupied the subject property, living at the ancestral house. Genaro's other children, specifically Santiago, Maria and Mariano were bequeathed, and stayed at, a different property within the same locality, still from the estate of their father.

After Petra's death, her purported will, a holographic will, was probated in Special Proceedings No. 1615-M before RTC, Branch 8, Malolos, Bulacan, which Decision on the will's extrinsic validity has become final and

executory.[4] In the will, Petra, asserting ownership, devised the subject property to Teodoro Teodoro.

Teodoro Teodoro effected the demolition of the ancestral house, intending to use the subject property for other purposes.

Soon thereafter, respondents, who resided at portions of Lot No. 2476 that surround the subject property on which the ancestral house previously stood, erected a fence on the surrounding portion, barricaded its frontage, and put up a sign thereat, effectively dispossessing Teodoro Teodoro of the property bequeathed to him by Petra.

After Teodoro Teodoro's demand for respondents to vacate the subject property went unheeded, he filed the complaint for forcible entry against respondents, alleging the following in pertinent part:

3. [Teodoro Teodoro] is a nephew of the deceased Petra Teodoro vda. De Salonga x x x who executed a holographic will designating him therein as administrator of her estate and likewise devised in his favor a parcel of land located in Purok 2, Bambang, Bulacan, Bulacan and the ancestral house built therein. Other properties of Petra Teodoro were bequeathed in favor of other named heirs. x x x.

4. Aforementioned parcel of land with the ancestral house was in turn inherited by the decedent Petra Teodoro from her father Genaro Teodoro who also gave separate properties to his four other children, who are all dead, namely, Santiago who has eight (8) children, Maria who has six (6) children, Ana who has no child and Mariano who has eight (8) children including herein [Teodoro Teodoro] as the eldest;

5. It is of common knowledge in the locality that the subject property where the ancestral house stood was given by Genaro Teodoro to [his] daughter Petra Teodoro to the exclusion of all others. Petra Teodoro lived in that property all her life. x x x.

x x x x

7. This subject property is declared for taxation purposes in the name of [Teodoro Teodoro's] grandfather, Genaro Teodoro as shown by the hereto attached photocopy of Tax Declaration of Real Property No. 99-05003-0246 for the year 2000 which is marked as Annex "F";

x x x x

10. [Subject property] having been given to [Teodoro Teodoro] as a devisee in the approved will of Petra Teodoro, it became his absolute property to the exclusion of all others;

11. Sometime in July 2004, [Teodoro Teodoro] as the absolute owner and possessor thereof, decided to demolish the already dilapidated ancestral house in the subject property to clear the same for other available uses/purposes. x x x.

12. By means of force and intimidation, [Teodoro Teodoro] was ousted likewise prevented by [respondents] from entering the subject property. [Respondents] have also converted/appropriated for themselves the exclusive use of the subject property into their own parking lot and other personal use, to the exclusion and damage of [Teodoro Teodoro];[5] (Emphasis supplied).

In their Answer, respondents asserted their own ownership and possession of the subject property, countering that:

5. It is worth to mention that [respondents] Danilo Espino and Rosario Santiago are residing thereat for more than fifty (50) years, while [respondents] Paulina Litao and Rufina dela Cruz are resident of the subject place for more than sixty (60) years, most of them residing thereat since birth, at the time that their grandmother Maria Teodoro is still living and residing thereat.

6. Thus, when siblings Maria Teodoro (grandmother of [respondents]), Petra (to whom the subject property was inherited) and Mariano (father of [Teodoro Teodoro]) died, the heirs, who include [respondents] and

[Teodoro Teodoro] extrajudicially, among themselves, partitioned the property left by their ascendants, which are still in the name of the siblings' father Genaro Teodoro. [Respondents], since they are already residing in the subject property and had built their respective houses therein, had with them the said subject [property]. x x x.

7. [Respondents], through their authorized representative, [respondent] Rosario Santiago, in the exercise of their act of ownership of the subject lot paid for its real property taxes. x x x.

8. x x x [Teodoro Teodoro] deliberately failed to consider and mention in his complaint that there was already a decision rendered by court, declaring the subject property as part of the property left by Petra Teodoro to her legitimate heirs, which include among others [respondents].

9. That however, due to [respondents'] failure as substituted heirs to execute the order, dated May 18, 1994, a Motion for the Revival of Judgment was filed and heard before Branch 10 of the Regional Trial Court of Bulacan. The Honorable Court x x x resolved x x x the extent of the allowance and admission to probate the holographic will of the late Petra Teodoro, where a Certificate of Allowance dated February 14, 1990 was subsequently issued, as its Decision dated June 29, 1989 became final and executory, affect the revival of judgment.

x x x x

13. While it is true that the dilapidated ancestral house in the subject property was demolished; however, the said act, as suggested by [Teodoro Teodoro] was allowed by [respondents] (who had their respective houses built in the same lot where the same is constructed) in order to have the same be partitioned among themselves. As [Teodoro Teodoro] was constantly complaining that the property left to him and his siblings is less than the subject property given to the [respondents] in area, they agreed verbally that if the ancestral house will be demolished, a surveyor would be at ease in surveying the same and determine if indeed the area is more than that allotted to [Teodoro Teodoro], which in that case, as per agreement, the excess, if any will suffice the lack in area of [Teodoro Teodoro]. It was however found out that the area of the subject property was less than the area that should be allocated and apportioned as shares of [respondents], hence they [intimated] the same to [Teodoro Teodoro], who got mad and threaten[ed] to get the subject property from them.

14. The putting of signs "No Trespassing" posted at the frontage of the subject property is an allowable act by owners, residing thereat to protect their property against intruders, hence there is nothing wrong for [respondents] to put the same. x x x.

15. There is no truth, as what [Teodoro Teodoro] claimed in paragraph 12 of his complaint that he was ousted and prevented from entering the subject property by [respondents], because in the first place he could not be ousted thereat, as he is not in possession of the said property.[6] (Emphasis theirs).

After trial, the MTC dismissed the complaint, ruling on the issue of ownership and ultimately resolving the issue of who between Teodoro Teodoro and respondents had a better right to possess the subject property:

x x x [Teodoro Teodoro's] claim of ownership over the subject lot stemmed from the approved and duly probated Holographic Will of Petra Teodoro. Although it is undisputed that Petra Teodoro was in actual possession of the subject lot prior to her demise and that she left a Holographic Will wherein the subject lot was bequeathed to [Teodoro Teodoro], the probate of her last will has not finally settled the question of ownership over the subject lot. Clearly, the subject lot still forms part of the estate of the late Genaro Teodoro. In the absence of an actual and approved partition plan among his heirs, the subject lot remains part of the Genaro Teodoro's estate. Since his children Santiago, Maria, Petra, Maraino and Ana are all deceased, their children or grandchildren by right of representation have the right to inherit from their ancestor.

x x x x

A person who claims that he has a better right to real property must prove his ownership of the same x x x. Clearly, [Teodoro Teodoro] has failed to prove his ownership over the property or that of his devisee Petra Teodoro. Thus, the court is convinced that the possession of [respondents] over the subject lot should not be disturbed, until and unless the question of ownership over the same shall have been finally resolved before the appropriate court.

x x x x

WHEREFORE, judgment is hereby rendered dismissing the complaint and the counterclaim interposed in relation thereto, without pronouncement as to costs.[7]

The RTC, in its appellate jurisdiction over forcible entry cases, acting on Teodoro Teodoro's appeal, adopted the factual findings of the MTC, but reversed the ruling, ruled in favor of Teodoro Teodoro and ordered the ejectment of respondents from the subject property. It pithily ruled, thus:

But the bottom line for resolution in this case is who has the prior physical possession of the subject parcel. x x x.

The late Petra Teodoro's share to the inheritance of his father Genaro is admittedly the old ancestral house and the lot over which it stands. x x x.

[Teodoro Teodoro] claims right to possession only over said portion (now the vacant space x x x not the entire lot 2476 until he was displaced therefrom by the [respondents] through force). [Teodoro Teodoro] does not contest the perimeter area of Lot 2476 where [respondents] are residing. He has acknowledged in clear terms that the rest of the area of Lot 2476 is occupied by [respondents]. The assailed decision recognized that Petra Teodoro was in actual possession of the lot prior to her death. It is [Teodoro Teodoro's] argument that Petra Teodoro, tacked [from by Teodoro Teodoro], has had prior physical possession of the controverted portion of lot 2476. He went on arguing that regardless of whether or not the duly probated will completely settled the issue of partition of the remaining estate of Genaro Teodoro, he has the prior actual and physical possession of the vacant space where the old ancestral house formerly stands, passed on to him by the late Petra Teodoro, a fact [respondents] deny. [Respondents] even belied that they have ousted and restrained [Teodoro Teodoro] from entering the subject property.

Said pretension is however negated by evidence showing the barricaded vacant space or disputed area consisting of 120 square meters, more or less (approximate width of lot is 7.55 meters, approximate length is 17.9 meters with indented portion measuring 1.5 meters deep x x x), where the cemented portion of the flooring of the bakery near the national road lease by [respondents] is still existing x x x and over which he exercised control and constructive possession. x x x.

x x x x

[Teodoro Teodoro] anchors on the other hand his claim on the Holographic Will of Petra Teodoro dated May 1, 1973 x x x duly probated and approved in a Decision x x x dated June 19, 1989 of Branch 8 of this Court in SP Proceeding No. 1615-M, which Decision has become final and executory as of February 14, 1990 x x x bequeathing the disputed portion of Lot 2476 and the old ancestral house thereon to him, the letters of administration issued to him by Branch 8 of this Court x x x, the Project of Partition submitted to the said court x x x plus his possession of the vacant area or disputed portion of [L]ot 2476. [Respondents] has stressed that he is not contesting the rest of [L]ot 2476 occupied by the houses of [respondents].

Analyzing the facts of the case, the lower [court] concluded that the subject parcel is a part of the estate of the late Genaro Teodoro and in the absence of an approved partition among the heirs, remains a community property over which the legal heirs of Genaro Teodoro have the right to inherit. All therefore are entitled to exercise the right of dominion including the right of possession.

This Court disagrees with the said ruling applying the plethora of cases decisive of the issue and consistent with the established jurisprudence that the lower court cannot dispose with finality the issue of ownership-such issue being inutile in an ejectment suit except to throw light on the question of possession.

Given the foregoing, [Teodoro Teodoro] has established a valid claim to institute the eviction suit against [respondents] over the disputed area or vacant portion of Lot 2476 and for him to be restored therein.

x x x x

WHEREFORE, premises considered, finding reversible error on the appealed judgment, the same is hereby VACATED and SET ASIDE and a new one is entered as follows:

1. Ordering that [Teodoro Teodoro] be restored in the lawful possession of the disputed area of Lot 2476 and for the eviction therefore of [respondents] on said portion; and
2. [Respondents] to pay the costs of the suit.[8]

With the reversal of the MTC's ruling, respondents then appealed the RTC's decision to the Court of Appeals. The appellate court reversed the RTC, likewise dismissed the complaint as the MTC had done, but did not reach the same result as that of the inferior court. It specifically ruled that Teodoro Teodoro:

- (1) never had physical possession of the subject property, not having lived there at anytime, whether while Petra was alive nor after her death;
- (2) did not adduce evidence before the lower courts on proof of payment of any real property tax on the disputed vacant lot, portion of Lot No. 2476, or to the whole of Lot No. 2476;
- (3) did not solely or unilaterally cause the demolition of the ancestral house such a fact equating to his exclusive ownership of the subject property and complete control and dominion over it; and
- (4) cannot tack his alleged possession of the subject property to that of Petra Teodoro simply by virtue of the latter's holographic will, leading to the issue of ownership which is insignificant in forcible entry cases.

In all, the appellate court found that Teodoro Teodoro (substituted by his heirs Nelson and Rolando Teodoro at that juncture) "failed to discharge the burden of proof that he had prior actual physical possession of the subject [property] before it was barricaded by [respondents] to warrant the institution of the forcible entry suit." The appellate court disposed of the case, thus:

WHEREFORE, premises considered, the assailed Decision [dated] 28 February 2007 and Resolution dated 26 June 2007 of the Regional Trial Court of Malolos, Bulacan, Branch 81 are hereby REVERSED and SET ASIDE, and the instant case is DISMISSED for lack of merit.[9]

Hence, this appeal by certiorari filed by the heirs of Teodoro Teodoro raising the following errors in the appellate court's dismissal of the complaint:

1. The Honorable Court of Appeals failed to take notice of relevant facts such as petitioner Teodoro's exercise of possessory rights over the subject property, among others, which if properly considered, will justify a different conclusion.
2. The Honorable Court of Appeals misappreciated undisputed facts such as the respondents' fencing of the vacant area cleared by petitioner Teodoro and their barricading of the frontage thereof, among others, that deprived petitioner Teodoro his possessory rights over the vacant area.
3. The findings of the Honorable Court of Appeals are grounded entirely on speculation, surmises or conjectures.

4. There is grave abuse of discretion in the appreciation of facts in the assailed Decision.[10]

The assigned errors define the issue for our resolution which is whether or not the act of respondents in barricading the frontage of the portion of Lot No. 2476 on which stood the ancestral house occupied by Petra amounted to Teodoro Teodoro's unlawful dispossession thereof through the forcible entry of respondents.

The ground rules in forcible entry cases:[11]

- (1) One employs force, intimidation, threat, strategy or stealth to deprive another of physical possession of real property.
- (2) Plaintiff (Teodoro Teodoro) must allege and prove prior physical possession of the property in litigation until deprived thereof by the defendant (herein respondents). This requirement implies that the possession of the disputed land by the latter was unlawful from the beginning.
- (3) The sole question for resolution hinges on the physical or material possession (possession de facto) of the property. Neither a claim of juridical possession (possession de jure) nor an averment of ownership by the defendant can, at the outset, preclude the court from taking cognizance of the case.
- (4) Ejectment cases proceed independently of any claim of ownership, and the plaintiff needs merely to prove prior possession de facto and undue deprivation thereof.

In this case, both parties assert prior and exclusive physical possession in the concept of owner[12] acquired through succession[13] from the same decedent, their aunt and grand aunt, respectively, Petra. In turn, Petra inherited the property from her father Genaro, in whose name the subject property is still registered.

Teodoro Teodoro's assertion of physical possession comprises mainly of his claimed ownership of the subject property acquired through testate succession, or via the holographic will of Petra.[14] Teodoro Teodoro then points, as an exercise of his ownership and incident of his physical possession of the subject property, to his act of demolition of the ancestral house.

On the other hand, respondents assert possession likewise by virtue of ownership manifested in their residence at Lot No. 2476 spanning more than five (5) decades, reckoned even from the time Maria, respondents' grandmother and sister of Petra, was alive and resided thereat.[15] Respondents trace their possession from the extrajudicial partition of the commingled properties of the siblings Maria, respondents' direct ascendant, Petra and Mariano, father of Teodoro Teodoro, progeny and heirs of Genaro.[16] According to respondents, from the partition, the heirs of all three Genaro children possessed and occupied their respective shares: respondents received Lot No. 2476 which encompasses herein subject property, while Teodoro Teodoro and his siblings received a different property, "a 667 residential lot at Bambang, Bulacan, Bulacan."

Also, respondents aver that, through respondent Rosario Santiago, they paid for Lot No. 2476's realty taxes. Respondents counter that the subject property was not solely bequeathed to Teodoro Teodoro as it is part of Petra's estate for disposition to her legitimate heirs, including herein respondents. Lastly, on Teodoro Teodoro's claim that he had solely effected the demolition of the ancestral house, respondents contend that they had allowed the demolition upon the understanding that the parties would then completely partition the subject property, as that portion is centrally located in Lot No. 2476 where the respondents actually reside.

Given both parties respective claims of ownership over the subject property via succession from their ascendants Maria, Petra and Mariano Teodoro, who are all compulsory heirs of Genaro in whose name the subject property is still registered, the MTC ruled that respondents cannot be disturbed in their possession of the subject property "until and unless the question of ownership over the same [is] finally resolved before the appropriate court."

In contrast, the RTC, without categorically resolving the issue of ownership of Lot No. 2476, ruled that on the portion of Lot No. 2476 where the ancestral house used to stand, Teodoro did establish his prior physical possession over the subject property resulting in his right to institute the ejectment suit against respondents. Significantly, the RTC confirmed respondents' physical possession of, and residency at, Lot No. 2476.

There would yet be another turn of events. The appellate court, albeit refusing to touch and rule on the issue of ownership, declared that there lacked conclusive evidence of Teodoro Teodoro's prior actual physical possession over the subject property. Thus, the appellate court dismissed Teodoro Teodoro's complaint for lack of merit.

We are now asked for a final ruling.

We grant the petition. We reverse the decision of the Court of Appeals and restore the decision of the RTC on the appeal reversing the MTC.

We affirm the finding of fact by the RTC which is decisive of the issue that has remained unresolved inspite of a summary procedure and two appellate reviews of the forcible entry case filed by Teodoro Teodoro. The RTC said:

Analyzing the facts of the case, the lower [court] concluded that the subject parcel is a part of the estate of the late Genaro Teodoro and in the absence of an approved partition among the heirs, remains a community property over which the legal heirs of Genaro Teodoro have the right to inherit. All therefore are entitled to exercise the right of dominion including the right of possession.[17] (Emphasis supplied).

The RTC's comment that it "disagrees with the said ruling" only meant that "the lower court cannot dispose with finality the issue of ownership" since such ownership issue is "inutile in an ejectment suit except to throw light on the question of possession." [18] And so the RTC ruled that Teodoro Teodoro should be restored in the lawful possession of the disputed area of Lot No. 2476 in light of the finding of the MTC that the subject lot still forms part of the estate of the late Genaro Teodoro. It is from this same fact that the MTC reached the contrary conclusion that Teodoro Teodoro's complaint should be dismissed because he has "failed to prove his ownership." [19]

In the sense that Teodoro Teodoro has not proven exclusive ownership, the MTC was right. But exclusive ownership of Lot No. 2476 or a portion thereof is not in this case required of Teodoro Teodoro for him to be entitled to possession. Co-ownership, the finding of both the MTC at first instance and by the RTC on appeal, is sufficient. The pertinent provisions of the Civil Code state:

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

Art. 1078. When there are two or more heirs, the whole estate of the decedent is, before its partition, owned in common by such heirs, subject to the payment of debts of the deceased.

Certainly, and as found by the trial courts, the whole of Lot No. 2476 including the portion now litigated is, owing to the fact that it has remained registered in the name of Genaro who is the common ancestor of both parties herein, co-owned property. All, or both Teodoro Teodoro and respondents are entitled to exercise the right of possession as co-owners. Neither party can exclude the other from possession. Although the property remains unpartitioned, the respondents in fact possess specific areas. Teodoro Teodoro can likewise point to a specific area, which is that which was possessed by Petra. Teodoro Teodoro cannot be dispossessed of such area, not only by virtue of Petra's bequeathal in his favor but also because of his own right of possession that comes from his co-ownership of the property. As the RTC concluded, petitioners, as heirs substituting Teodoro Teodoro in this suit, should be restored in the lawful possession of the disputed area.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 99805 is

REVERSED and SET ASIDE and the Decision of the Regional Trial Court in Civil Case No. 634-M-06 is REINSTATED. No pronouncement as to costs.

SO ORDERED.

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

[1] Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Bienvenido L. Reyes (now a member of this Court) and Isaias P. Dicdican, concurring. Rollo, pp. 65-74.

[2] Penned by Judge Herminia V. Pasamba. Id. at 174-178.

[3] Penned by Judge Ester R. Chua. Id. at 134-137.

[4] CA rollo, pp. 81-89.

[5] Id. at 62-66.

[6] Id. at 103-107.

[7] Rollo, pp. 135-137.

[8] Id. at 176-178.

[9] Id. at 73.

[10] Id. at 49.

[11] See Rules of Court, Rule 70, Section 1 and *Bongato v. Sps. Malvar*, 436 Phil. 109, 122-123 (2002).

[12] See Civil Code, Article 525. - The possession of things or rights may be had in one of two concepts: either in the concept of owner, or in that of the holder of the thing or right to keep or enjoy it, the ownership pertaining to another person.

[13] See Civil Code, Article 712. - Ownership is acquired by occupation and by intellectual creation.

Ownership and other real rights over property are acquired and transmitted by law, by donation, by testate and intestate succession, and in consequence of certain contracts, by tradition.

They may also be acquired by means of prescription. (Emphasis supplied).

[14] CA rollo, pp. 76-78.

[15] See paragraphs 5 and 6 of the Complaint. Id. at 63.

[16] Id.

[17] Rollo, p. 178.

[18] Id.

[19] Id. at 136.

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