



Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

EVANGELINE RIVERA-
CALINGASAN and E. RICAL
ENTERPRISES,

Petitioners,

- versus -

WILFREDO RIVERA, substituted by
MA. LYDIA S. RIVERA, FREIDA
LEAH S. RIVERA and WILFREDO S.
RIVERA, JR.,


Respondents.

G.R. No. 171555

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

APR 17 2013 

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DECISION

BRION, J.:

We resolve the petition for review on *certiorari*,¹ filed by petitioners Evangeline Rivera-Calingasan and E. Rical Enterprises,² assailing the February 10, 2006 decision³ of the Court of Appeals (CA) in CA-G.R. SP No. 90717. The CA decision affirmed with modification the April 6, 2005 decision⁴ and the July 8, 2005 order⁵ of the Regional Trial Court (RTC) of Lipa City, Branch 85, in Civil Case No. 2003-0982.

¹ Under Rule 45 of the Rules of Court; *rollo*, pp. 9-18.

² Evangeline is doing business under the tradename E. Rical Enterprises; CA *rollo*, p. 16.

³ Penned by Associate Justice Lucas P. Bersamin (now a member of this Court), and concurred in by Associate Justices Renato C. Dacudao and Celia C. Librea-Leagogo; *rollo*, pp. 22-30.

⁴ CA *rollo*, pp. 37-41. Penned by Judge Avelino G. Demetria.

⁵ *Id.* at 35-36.



The Factual Antecedents

During their lifetime, respondent Wilfredo Rivera and his wife, Loreto Inciong, acquired several parcels of land in Lipa City, Batangas, two of which were covered by Transfer Certificate of Title (*TCT*) Nos. T-22290 and T-30557.⁶ On July 29, 1982, Loreto died, leaving Wilfredo and their two daughters, Evangeline and Brigida Liza, as her surviving heirs.⁷

About eleven (11) years later, or on March 29, 1993, Loreto's heirs executed an extrajudicial settlement of her one-half share of the conjugal estate, adjudicating all the properties in favor of Evangeline and Brigida Liza; Wilfredo waived his rights to the properties, with a reservation of his usufructuary rights during his lifetime.⁸ On September 23, 1993, the Register of Deeds of Lipa City, Batangas cancelled TCT Nos. T-22290 and T-30557 and issued TCT Nos. T-87494 and T-87495 in the names of Evangeline and Brigida Liza, with an annotation of Wilfredo's usufructuary rights.⁹

Almost a decade later, or on March 13, 2003,¹⁰ Wilfredo filed with the Municipal Trial Court in Cities (*MTCC*) of Lipa City a complaint for forcible entry against the petitioners and Star Honda, Inc., docketed as Civil Case No. 0019-03.

Wilfredo claimed that he lawfully possessed and occupied the two (2) parcels of land located along C.M. Recto Avenue, Lipa City, Batangas, covered by TCT Nos. T-87494 and T-87495, with a building used for his furniture business. Taking advantage of his absence due to his hospital confinement in September 2002, the petitioners and Star Honda, Inc. took possession and caused the renovation of the building on the property. In December 2002, the petitioners and Star Honda, Inc., with the aid of armed men, barred him from entering the property.¹¹

Both the petitioners and Star Honda, Inc. countered that Wilfredo voluntarily renounced his usufructuary rights in a petition for cancellation of usufructuary rights dated March 4, 1996,¹² and that another action between the same parties is pending with the RTC of Lipa City, Branch 13 (an action for the annulment of the petition for cancellation of usufructuary rights filed by Wilfredo), docketed as Civil Case No. 99-0773.

⁶ Id. at 42-45.

⁷ Id. at 42.

⁸ Id. at 44.

⁹ Id. at 46-48.

¹⁰ Id. at 19.

¹¹ Id. at 59-60.

¹² Id. at 49.

The MTCC Ruling

In its December 2, 2003 decision,¹³ the MTCC dismissed the complaint. It found no evidence of Wilfredo's prior possession and subsequent dispossession of the property. It noted that Wilfredo admitted that both E. Rical Enterprises and Star Honda, Inc. occupied the property through lease contracts from Evangeline and her husband Ferdinand.

Wilfredo appealed to the RTC.

The RTC Ruling

In its November 30, 2004 decision,¹⁴ the RTC affirmed the MTCC's findings. It held that Wilfredo lacked a cause of action to evict the petitioners and Star Honda, Inc. since Evangeline is the registered owner of the property and Wilfredo had voluntarily renounced his usufructuary rights.

Wilfredo sought reconsideration of the RTC's decision and, in due course, attained this objective; the RTC set aside its original decision and entered another, which ordered the eviction of the petitioners and Star Honda, Inc.

In its April 6, 2005 decision,¹⁵ the RTC held that Wilfredo's renunciation of his usufructuary rights could not be the basis of the complaint's dismissal since it is the subject of litigation pending with the RTC of Lipa City, Branch 13. The RTC found that the MTCC overlooked the evidence proving Wilfredo's prior possession and subsequent dispossession of the property, namely: (a) Evangeline's judicial admission of "J. Belen Street, Rosario, Batangas" as her residence since May 2002; (b) the Lipa City Prosecutor's findings, in a criminal case for qualified trespass to dwelling, that the petitioners are not residents of the property; (c) the affidavit of Ricky Briones, Barangay Captain of Barangay 9, Lipa City where the property is located, attesting to Wilfredo's prior possession and the petitioners' entry to the property during Wilfredo's hospital confinement; and (d) the petitioners, with the aid of armed men, destroyed the padlock of the building on the property. The RTC ordered the petitioners and Star Honda, Inc. to pay ₱620,000.00 as reasonable compensation for the use and occupation of the property, and ₱20,000.00 as attorney's fees.

¹³ Id. at 59-65. Penned by Presiding Judge Jaime M. Borja.

¹⁴ Id. at 70-71.

¹⁵ *Supra* note 4.

The petitioners and Star Honda, Inc. filed separate motions for reconsideration.

In its July 8, 2005 order,¹⁶ the RTC modified its April 6, 2005 decision by absolving Star Honda, Inc. from any liability. It found no evidence that Star Honda, Inc. participated in the dispossession.

The petitioners then filed a Rule 42 petition for review with the CA.

The CA Ruling

In its February 10, 2006 decision,¹⁷ the CA affirmed with modification the RTC's findings, noting that: (a) Evangeline's admission of "J. Belen Street, Rosario, Batangas" as her residence (a place different and distinct from the property) rendered improbable her claim of possession and occupation; and (b) Evangeline's entry to the property (on the pretext of repairing the building) during Wilfredo's hospital confinement had been done without Wilfredo's prior consent and was done through strategy and stealth. The CA, however, deleted the award of ₱20,000.00 as attorney's fees since the RTC decision did not contain any discussion or justification for the award.

The petitioners then filed the present petition.

Wilfredo died on December 27, 2006 and has been substituted by his second wife, Ma. Lydia S. Rivera, and their children, Freida Leah S. Rivera and Wilfredo S. Rivera, Jr. (respondents).¹⁸

The Petition

The petitioners submit that the CA erred in equating possession with residence since possession in forcible entry cases means physical possession without qualification as to the nature of possession, *i.e.*, whether residing or not in a particular place. They contend that the pronouncements of the RTC of Lipa City, Branch 13, in Civil Case No. 99-0773, in the March 11, 2003 order,¹⁹ that they have been "occupying the premises since 1997"²⁰ and

¹⁶ *Supra* note 5.

¹⁷ *Supra* note 3.

¹⁸ *Rollo*, p. 85.

¹⁹ *CA rollo*, pp. 68-69.

²⁰ *Rollo*, p. 14.

Wilfredo's own admission that he padlocked the doors of the building contradict Wilfredo's claim of prior possession.

The Case for the Respondents

The respondents counter that the petitioners mistakenly relied on the statements of the RTC of Lipa City, Branch 13, in Civil Case No. 99-0773 on the petitioners' occupation since 1997; such statements had been rendered in an interlocutory order, and should not prevail over Evangeline's admission in her answer of "Poblacion, Rosario, Batangas"²¹ as her residence, compared to Wilfredo's admission in his complaint of "C.M. Recto Avenue, Lipa City, Batangas" as his residence, the exact address of the disputed property.²²

The Issue

The case presents to us the issue of who, between the petitioners and Wilfredo, had been in prior physical possession of the property.

Our Ruling

The petition lacks merit.

Ejectment cases involve only physical possession or possession *de facto*.

"Ejectment cases - forcible entry and unlawful detainer - are summary proceedings designed to provide expeditious means to protect actual possession or the right to possession of the property involved. The only question that the courts 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*. It does not even matter if a party's title to the property is questionable."²³ Thus, "an ejectment case will not necessarily be decided in favor of one who has presented proof of ownership of the subject property."²⁴

Indeed, possession in ejectment cases "means nothing more than **actual physical possession**, not legal possession in the sense contemplated

²¹ Id. at 96.

²² Ibid.

²³ *Barrientos v. Rapal*, G.R. No. 169594, July 20, 2011, 654 SCRA 165, 170-171; emphasis ours, italics supplied. See also *David v. Cordova*, 502 Phil. 626, 645 (2005).

²⁴ *Carbonilla v. Abiera*, G.R. No. 177637, July 26, 2010, 625 SCRA 461, 469.

in civil law.”²⁵ In a forcible entry case, “**prior physical possession** is the primary consideration[.]”²⁶ “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.”²⁷ “[T]he party in peaceable, quiet possession shall not be thrown out by a strong hand, violence, or terror.”²⁸

The respondents have proven prior physical possession of the property.

In this case, we are convinced that Wilfredo had been in prior possession of the property and that the petitioners deprived him of such possession by means of force, strategy and stealth.

The CA did not err in equating residence with physical possession since residence is a manifestation of possession and occupation. Wilfredo had consistently alleged that he resided on “C.M. Recto Avenue, Lipa City, Batangas,” the location of the property, whereas Evangeline has always admitted that she has been a resident of “J. Belen Street, Rosario, Batangas.” The petitioners failed to prove that they have occupied the property through some other person, even if they have declared their residence in another area.

We note that in another proceeding, a criminal complaint for qualified trespass to dwelling, the Lipa City Prosecutor also observed that the petitioners did not reside on or occupy the property on December 16, 2002,²⁹ about three (3) months before Wilfredo filed the complaint for forcible entry on March 13, 2003. The petitioners also alleged therein that they are residents of “J. Belen St., Rosario, Batangas” and not “No. 30 C.M. Recto Ave., Lipa City[.]”³⁰

²⁵ *Antazo v. Doblada*, G.R. No. 178908, February 4, 2010, 611 SCRA 586, 592; and *Arbizo v. Santillan*, G.R. No. 171315, February 26, 2008, 546 SCRA 610, 622. Emphasis ours.

²⁶ *Antazo v. Doblada*, *supra*, at 593; emphasis ours.

²⁷ *Ibid.* See also *Pajuyo v. Court of Appeals*, G.R. No. 146364, June 3, 2004, 430 SCRA 492, 510-511.

²⁸ *Lee v. Dela Paz*, G.R. No. 183606, October 27, 2009, 604 SCRA 522, 542. See also *Quizon v. Juan*, G.R. No. 171442, June 17, 2008, 554 SCRA 601, 614.

²⁹ *Rollo*, pp. 47-50.

³⁰ *Id.* at 47 and 49.

Furthermore, the petitioners failed to rebut the affidavit of Barangay Captain Briones attesting to Wilfredo's prior possession and the petitioners' unlawful entry to the property during Wilfredo's hospital confinement.³¹

The petitioners' claim of physical possession cannot find support in the March 11, 2003 order³² of the RTC of Lipa City, Branch 13, in Civil Case No. 99-0773 stating that the petitioners "have been occupying the premises since 1997." We note that the order was a **mere interlocutory order** on Wilfredo's motion for the issuance of a cease and desist order. An interlocutory order does not end the task of the court in adjudicating the parties' contentions and determining their rights and liabilities against each other. "[I]t is basically *provisional* in its application."³³ It is the nature of an interlocutory order that it is subject to modification or reversal that the result of further proceedings may warrant. Thus, the RTC's pronouncement on the petitioners' occupation "since 1997" is not *res judicata* on the issue of actual physical possession.

In sum, we find no reversible error in the decision appealed from and, therefore, affirm it.

Wilfredo's death did not render moot the forcible entry case.

The death of Wilfredo introduces a seeming complication into the case and on the disposition we shall make. To go back to basics, the petition before us involves the recovery of possession of real property and is a real action that is not extinguished by the death of a party. The judgment in an ejectment case is conclusive between the parties and their successors-in-interest by title subsequent to the commencement of the action; hence, it is enforceable by or against the heirs of the deceased. This judgment entitles the winning party to: (a) the restitution of the premises, (b) the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, and (c) attorney's fees and costs.

The complicating factor in the case is the nature and basis of Wilfredo's possession; he was holding the property as usufructuary, although this right to *de jure* possession was also disputed before his death, hand in hand with the *de facto* possession that is subject of the present case. Without need, however, of any further dispute or litigation, the right to the usufruct is now rendered moot by the death of Wilfredo since death

³¹ *Id.* at 51-53.

³² *Supra* note 19.

³³ *Republic of the Philippines v. Sandiganbayan (Fourth Division), et al.*, G.R. No. 152375, December 16, 2011; and *Tomacruz-Lactao v. Espejo*, 478 Phil. 755, 763 (2004). Emphasis ours.

extinguishes a usufruct under Article 603(1) of the Civil Code. This development deprives the heirs of the usufructuary the right to retain or to reacquire possession of the property even if the ejectment judgment directs its restitution.


Thus, what actually survives under the circumstances is the award of damages, by way of compensation, that the RTC originally awarded and which the CA and this Court affirmed. This award was computed as of the time of the RTC decision (or roughly about a year before Wilfredo's death) but will now have to take into account the compensation due for the period between the RTC decision and Wilfredo's death. The computation is a matter of execution that is for the RTC, as court of origin, to undertake. The heirs of Wilfredo shall succeed to the computed total award under the rules of succession, a matter that is not within the authority of this Court to determine at this point.

WHEREFORE, we hereby **DENY** the appeal and accordingly **AFFIRM** the February 10, 2006 decision of the Court of Appeals in CA-G.R. SP No. 90717 with the **MODIFICATION** that, with the termination, upon his death, of respondent Wilfredo Rivera's usufructuary over the disputed property, the issue of restitution of possession has been rendered moot and academic; on the other hand, the monetary award of ₱620,000.00, as reasonable compensation for the use and occupation of the property up to the time of the Regional Trial Court decision on April 6, 2005, survives and accrues to the estate of the deceased respondent Wilfredo Rivera, to be distributed to his heirs pursuant to the applicable law on succession. Additional compensation accrues and shall be added to the compensation from the time of the Regional Trial Court decision up to respondent Wilfredo Rivera's death. For purposes of the computation of this additional amount and for the execution of the total amount due under this Decision, we hereby remand the case to the Regional Trial Court, as court of origin, for appropriate action. Costs against petitioners Evangeline Rivera-Calingasan and E. Rical Enterprises.

SO ORDERED.



ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice