



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ANACLETO C. MANGASER,
represented by his Attorney-in-fact
EUSTAQUIO DUGENIA,
Petitioner,

G.R. No. 204926

Present:

CARPIO, J., Chairperson,
DEL CASTILLO,
VILLARAMA, JR.,*
MENDOZA, and
LEONEN, JJ.

- versus -

DIONISIO UGAY,
Respondent.

Promulgated:

DEC 03 2014

Manila

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DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the June 13, 2012 Decision¹ and the December 5, 2012 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 122153, entitled "*Dionisio Ugay v. Anacleto C. Mangaser, represented by his Attorney-in-fact Eustaquio Dugenia*," a case of forcible entry and damages.

The Facts

On October 30, 2007, petitioner Anacleto Mangaser, represented by his attorney-in-fact, Eustaquio Dugenia (*petitioner*), filed a complaint for Forcible Entry with Damages against respondent Dionisio Ugay (*respondent*) before the Municipal Trial Court of Caba, La Union (MTC). In his complaint,

* Designated Acting Member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1888, dated November 28, 2014.

¹ Penned by Associate Justice Juan Q. Enriquez, Jr. with Associate Justice Marlene Gonzales-Sison and Associate Justice Danton Q. Bueser, concurring; *rollo*, pp. 34-42.

² *Id.* at 52-53.

petitioner alleged that he was the registered owner and possessor of a parcel of land situated in Santiago Sur, Caba, La Union, with an area of 10,632 square meters and covered by OCT No. RP-174 (FP-13787) and Tax Declaration No. 014-00707; that on October 31, 2006, petitioner, discovered that respondent stealthy intruded and occupied a portion of his property by constructing a residential house thereon without his knowledge and consent; that he referred the matter to the Office of Lupong Tagapamayapa for conciliation, but no settlement was reached, hence, a certification to file action was issued by the Lupon; and that demand letters were sent to respondent but he still refused to vacate the premises, thus, he was constrained to seek judicial remedy.³

Respondent denied the material allegations of the complaint and put up the following defenses, to wit: that he had been a resident of Samara, Aringay, La Union, since birth and when he reached the age of reason, he started occupying a parcel of land in that place then known as Sta. Lucia, Aringay, La Union; that years later, this parcel of land was designated as part of Santiago Sur, Caba, La Union due to a survey made by the government; that he introduced more improvements on the property by cultivating the land, and in March 2006, he put up a “bahay kubo”; that in October 2006, he installed a fence made of “bolo” to secure the property; that in installing the fence, he was guided by the concrete monuments which he knew to be indicators of the boundaries of petitioner’s property; that while he could not locate some of the monuments, he based the boundaries on his recollection since he was around when these were installed; that he knew the boundaries of petitioner’s property because he knew the extent of the “iron mining” activities done by a company on the said property; that petitioner was never in actual possession of the property occupied by him, and it was only on October 31, 2006 when he discovered the alleged intrusion; that it was not correct to say that he refused to vacate and surrender the premises despite receipt of the demand letters because in his letter-reply, he assured petitioner that he would voluntarily vacate the premises if he would only be shown to have intruded into petitioner’s titled lot after the boundaries were pointed out to him; and that instead of showing the boundaries to him, petitioner filed an action for forcible entry before the MTC.⁴

MTC Ruling

On April 26, 2011, the MTC ruled in favor of respondent⁵. It stated that petitioner failed to adduce any evidence to prove that the lot occupied by respondent was within his lot titled under OCT No. RP-174(13789). The

³ Id. at 28-29.

⁴ Id. at 29-30.

⁵ MTC Decision, id. at 22-26. Penned by Acting Presiding Judge Asuncion Fikingas-Mandia.

MTC opined that petitioner could have presented a relocation survey, which would have pinpointed the exact location of the house and fence put up by respondent, and resolved the issue once and for all.⁶ It also explained that petitioner failed to prove his prior physical possession of the subject property. The OCT No. RP-174(13789) registered under petitioner's name and the Tax Declaration were not proof of actual possession of the property. The dispositive portion of which reads:

WHEREFORE, the plaintiff (petitioner) having failed to establish his case by preponderance of evidence, the complaint is hereby DISMISSED.⁷

RTC Ruling

Aggrieved, petitioner appealed to the Regional Trial Court of Bauang, La Union (*RTC*) and the case was raffled to Branch 33.

In its August 23, 2011 Decision,⁸ the *RTC* reversed the MTC decision and ruled in favor of petitioner. It relied on the cases of *Barba v. Court of Appeals*⁹ and *Nuñez v. SLTEAS Phoenix Solutions, Inc.*,¹⁰ which held that in ejectment cases, possession of the land did not only mean actual or physical possession but also included the subject of the thing to the action of one's will or by the proper acts and legal formalities established for acquiring such right. The *RTC* stated that petitioner had clearly shown his possession of the property as evidenced by his OCT No. RP-174(13789) issued in March 1987 and tax declaration, dating back as early as 1995.¹¹ It added that the boundaries of the property were clearly indicated in the title, thus, there was no need to conduct a survey. As the owner, petitioner knew the exact metes and bounds of his property so that when respondent intruded stealthily, he filed the subject suit.¹²

The dispositive portion of the *RTC* decision reads:

WHEREFORE, after a thorough perusal of the facts and evidence in this case, this Court reverses the decision of the MTC, Caba, La Union, dated April 26, 2011 and rules in favor of plaintiff-appellant (petitioner) and against defendant-appellee (respondent), ordering the latter and all other persons claiming rights under him to:

⁶ Id. at 24.

⁷ Id. at 26.

⁸ Id. at 27-32. Penned by Judge Rose Mary Molina-Alim.

⁹ 426 Phil. 598, 607-608 (2002).

¹⁰ G.R. No. 180542, April 12, 2010, 618 SCRA 134, 143.

¹¹ *Rollo*, p. 31.

¹² Id. at 32.

1. VACATE the portion of the subject property encroached by him;
2. SURRENDER actual physical possession of the subject portion peacefully to plaintiff-appellant;
3. REMOVE all the improvements he introduced therein;
4. PAY attorney's fees in the amount Php20,000.00 to plaintiff-appellant, and pay the cost of suit.

SO ORDERED.¹³

Undaunted, respondent appealed to the CA.

CA Ruling

The CA *reversed* and *set aside* the decision of the RTC. Citing *Quizon v. Juan*,¹⁴ it emphasized that petitioner must allege and prove that he was in prior physical possession of the property in dispute. The word "possession," as used in forcible entry and unlawful detainer cases, meant nothing more than physical possession, not legal possession in the sense contemplated in civil law. The CA wrote that petitioner was not in physical possession despite the presentation of the OCT No. RP-174(13789) and his tax declarations.¹⁵ It reiterated that when the law would speak of possession in forcible entry cases, it is prior physical possession or possession *de facto*, as distinguished from possession *de jure*. What petitioner proved was legal possession, not his prior physical possession. Furthermore, the CA stated that the RTC misquoted *Nuñez v. SLTEAS Pheonix Solutions*¹⁶ by giving the wrong notion of what kind of possession was contemplated in forcible entry cases. In other words, physical possession was the crux in forcible entry, not possession that stemmed upon ownership.¹⁷

The dispositive portion of the assailed decision reads:

WHEREFORE, premises considered, the Petition for Review is GRANTED, accordingly, the Decision dated August 23, 2011 and Order dated October 25, 2011, of the RTC Branch 33, Bauang, La Union in Civil Case No. 2029-BG are REVERSED and SET ASIDE. The Decision of the MTC dated April 26, 2011 is hereby REINSTATED.

SO ORDERED.¹⁸

¹³ Id.

¹⁴ 577 Phil. 470 (2008).

¹⁵ *Rollo*, pp. 39-40.

¹⁶ *Supra* note 10.

¹⁷ *Rollo*, pp. 41-42.

¹⁸ Id. at 42.

Petitioner filed a motion for reconsideration,¹⁹ dated July 6, 2012, but it was subsequently denied by the CA in a Resolution,²⁰ dated December 5, 2012. It reads:

This Court, after a meticulous study of the arguments set forth in the Motion for Reconsideration filed by respondent, finds no cogent reason to revise, amend, much less reverse, the assailed Decision dated June 13, 2012. The Motion for Reconsideration is, thus, DENIED

SO ORDERED.²¹

Hence, this petition, anchored on the following

STATEMENT OF ISSUES

I

WHETHER OR NOT THE COURT OF APPEALS FAILED TO CONSIDER THE EVIDENCE OF OWNERSHIP OF PETITIONER WHICH MAY ESTABLISH PRIOR POSSESSION OVER THE PROPERTY BY HEREIN PETITIONER.

II

WHETHER OR NOT THE RESOLUTION DATED DECEMBER 5, 2012 OF THE COURT OF APPEALS, FORMER SPECIAL FOURTH DIVISION, DENYING THE MOTION FOR RECONSIDERATION IS VALID.²²

Petitioner argues that in ejectment cases, possession of the land does not only mean actual or physical possession or occupation but also by the fact that a land is subject to the action of one's will or by proper acts and legal formalities established for acquiring such right; that the CA should have considered OCT No. RP-174(13789) his tax declaration as proofs of prior physical possession over the property; and that the issuance of the same are considered to by law as proper acts and legal formalities established for acquiring such right. Petitioner cited Tolentino, as one of the authors and experts in Civil law, stating that the "proper acts and formalities" refer to juridical acts, or the acquisition of possession by sufficient title, *inter vivos* or *mortis causa*, onerous or lucrative. These are the acts which the law gives the force of acts of possession.

¹⁹ Id. at 43-47.

²⁰ Id. at 52-53.

²¹ Id. at 52.

²² Id. at 12.

Petitioner also avers that the December 5, 2012 CA Resolution was not valid as it did not state the legal basis required by the Constitution.

On May 28, 2013, respondent filed his Comment²³ before this Court. He stated that the issues raised and the arguments presented by petitioner have been thoroughly resolved and ruled upon by the CA. The appellate court did not err in reversing the RTC decision because petitioner was never in prior physical possession of the property in dispute. Respondent asserts that he has been in prior, actual, continuous, public, notorious, exclusive and peaceful possession in the concept of an owner of the property in dispute.²⁴

On March 28, 2014, petitioner filed his Reply,²⁵ reiterating the case of *Nuñez v. SLTEAS Phoenix Solutions, Inc.*,²⁶ where a party was able to demonstrate that it had exercised acts of ownership over the property by having it titled in its name and by paying real property taxes on it. Petitioner also laments the wrongful insistence of respondent that his possession over the property was one in the concept of an owner. To petitioner's mind, respondent failed to adequately adduce evidence to show proof of his right to possess the property when his possession came under attack with the filing of the subject case.²⁷

The Court's Ruling

The Court finds the petition meritorious.

For a forcible entry suit to prosper, the plaintiffs must allege and prove: (a) that they have prior physical possession of the property; (b) that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and, (c) that the action was filed within one (1) year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.²⁸

There is only one issue in ejectment proceedings: who is entitled to physical or material possession of the premises, that is, to possession *de facto*, not possession *de jure*? Issues as to the right of possession or

²³ Id. at 63-64.

²⁴ Id. at 63.

²⁵ Id. at 73-78.

²⁶ Supra note 10.

²⁷ *Rollo*, p. 75.

²⁸ *De La Cruz v. Court of Appeals*, 539 Phil. 158, 170 (2006).

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ownership are not involved in the action; evidence thereon is not admissible, except only for the purpose of determining the issue of possession.²⁹

As a rule, the word "possession" in forcible entry suits indeed refers to nothing more than prior physical possession or possession *de facto*, not possession *de jure* or legal possession in the sense contemplated in civil law. Title is not the issue, and the absence of it "is not a ground for the courts to withhold relief from the parties in an ejectment case."³⁰

The Court, however, has consistently ruled in a number of cases³¹ that while prior physical possession is an indispensable requirement in forcible entry cases, the dearth of merit in respondent's position is evident from the principle that 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. The case of *Quizon v. Juan*,³² which surprisingly was relied on by the CA, also stressed this doctrine.

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, inscription of possessory information titles and the like.³³ The reason for this exceptional rule is that possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession.³⁴ It is sufficient that petitioner was able to subject the property to the action of his will.³⁵ Here, respondent failed to show that he falls under any of these circumstances. He could not even say that the subject property was leased to him except that he promised that he would vacate it if petitioner would be able to show the boundaries of the titled lot.

In the case of *Nuñez v. SLTEAS Phoenix Solutions, Inc.*,³⁶ the subject parcel was acquired by the respondent by virtue of the June 4, 1999 Deed of Assignment executed in its favor by Spouses Ong Tiko and Emerenciana Sylianteng. The petitioner in the said case argued that, aside from the admission in the complaint that the subject parcel was left idle and

²⁹ *Habagat Grill v. DMC-Urban Property Developer, Inc.*, 494 Phil. 603, 619 (2005).

³⁰ *Nenita Quality Food Corporation v. Galabo*, G.R. No. 174191, January 30, 2013, 689 SCRA 569, 581.

³¹ *Nuñez v. SLTEAS Pheonix Solutions*, supra note 10, at 143; *Bunyi v. Factor*, 609 Phil. 134, 141 (2009); *Habagat Grill v. DMC-Urban Property Developer, Inc.*, supra note 29, at 619; *Spouses Benitez v. Court of Appeals*, 334 Phil. 216, 222 (1997).

³² Supra note 14, at 480.

³³ *Bunyi v. Factor*, supra note 31, at 141.

³⁴ *Somodion v. Court of Appeals*, G.R. No. 82680 August 15, 1994, 235 SCRA 307, 312, citing *Ramos v. Director of Lands*, 39 Phil. 175, 180 (1918).

³⁵ Id at 312.

³⁶ Supra note 10.

unguarded, the respondent's claim of prior possession was clearly negated by the fact that he had been in occupancy thereof since 1999. The Court disagreed with the petitioner and said:

Although it did not immediately put the same to active use, respondent appears to have additionally caused the property to be registered in its name as of February 27, 2002 and to have paid the real property taxes due thereon alongside the sundry expenses incidental thereto. Viewed in the light of the foregoing juridical acts, it consequently did not matter that, by the time respondent conducted its ocular inspection in October 2003, petitioner had already been occupying the land since 1999.

[Emphasis and underscoring supplied]

Hence, in that case, the Court ruled that such juridical acts were sufficient to establish the respondent's prior possession of the subject property.

The case of *Habagat Grill v. DMC-Urban Property Developer, Inc.*,³⁷ also involves an action for forcible entry. On June 11, 1981, David M. Consunji, Inc. acquired a residential lot situated in Matina, Davao City, which was covered by TCT No. T-82338. On June 13, 1981, it transferred the said lot to respondent DMC. Alleging that the petitioner forcibly entered the property in December 1993, the respondent filed on March 28, 1994 a complaint for forcible entry. One of the issues raised therein was whether respondent DMC had prior possession of the subject property, to which the Court answered in the affirmative. It ruled that:

Prior possession of the lot by respondent's predecessor was sufficiently proven by evidence of the execution and registration of public instruments and by the fact that the lot was subject to its will from then until December 1, 1993, when petitioner unlawfully entered the premises and deprived the former of possession thereof.

[Emphasis and underscoring supplied]

In the case at bench, the Court finds that petitioner acquired possession of the subject property by juridical act, specifically, through the issuance of a free patent under Commonwealth Act No. 141 and its subsequent registration with the Register of Deeds on March 18, 1987.³⁸

³⁷ Supra note 29.

³⁸ *Rollo*, p. 54.

Before the Court continues any further, it must be determined first whether the issue of ownership is material and relevant in resolving the issue of possession. The Rules of Court in fact expressly allow this: Section 16, Rule 70 of the Rules of Court 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.³⁹

This Court is of the strong view that the issue of ownership should be provisionally determined in this case. *First*, the juridical act from which the right of ownership of petitioner arise would be the registration of the free patent and the issuance of OCT No. RP-174(13789). Apparently, the Torrens title suggests ownership over the land. *Second*, respondent also asserts ownership over the land based on his prior, actual, continuous, public, notorious, exclusive and peaceful possession in the concept of an owner of the property in dispute.⁴⁰ Because there are conflicting claims of ownership, then it is proper to provisionally determine the issue of ownership to settle the issue of possession *de facto*.

Returning to the case, this Court cannot agree with the CA that petitioner's OCT No. RP-174(13789) and his tax declarations should absolutely be disregarded. The issuance of an original certificate of title to the petitioner evidences ownership and from it, a right to the possession of the property flows. Well-entrenched is the rule that a person who has a Torrens title over the property is entitled to the possession thereof.⁴¹

Moreover, his claim of possession is coupled with tax declarations. While tax declarations are not conclusive proof of possession of a parcel of land, they are good indicia of possession in the concept of an owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession.⁴² Together with the Torrens title, the tax declarations dated 1995 onwards presented by petitioner strengthens his claim of possession over the land before his dispossession on October 31, 2006 by respondent.

³⁹ Supra note 30, at 584.

⁴⁰ *Rollo*, p. 63.

⁴¹ *Heirs of Jose Maligaso, Sr. v. Spouses Encinas*, G.R. No. 182716, June 20, 2012, 674 SCRA 215, 220.

⁴² *Republic v. Rizalvo, Jr.*, G.R. No. 172011, March 7, 2011, 644 SCRA 516, 525.

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The CA was in error in citing the case of *De Grano v. Lacaba*⁴³ to support its ruling. In that case, the respondent tried to prove prior possession, by presenting only his tax declarations, tax receipt and a certification from the municipal assessor attesting that he had paid real property tax from previous years. The Court did not give credence to his claim because tax declarations and realty tax payments are not conclusive proof of possession. The situation in the present case differs because aside from presenting his tax declarations, the petitioner submitted OCT No. RP-174(13789) which is the best evidence of ownership from where his right to possession arises.

Against the Torrens title and tax declarations of petitioner, the bare allegations of respondent that he had prior, actual, continuous, public, notorious, exclusive and peaceful possession in the concept of an owner, has no leg to stand on. Thus, by provisionally resolving the issue of ownership, the Court is satisfied that petitioner had prior possession of the subject property.

When petitioner discovered the stealthy intrusion of respondent over his registered property, he immediately filed a complaint with the Lupong Tagapamayapa and subsequently filed an action for forcible entry with the MTC. Instead of taking the law into his own hands and forcefully expelling respondent from his property, petitioner composed himself and followed the established legal procedure to regain possession of his land.

If the Court were to follow the ruling of the CA and disregard juridical acts to obtain prior possession, then it would create an absurd situation. It would be putting premium in favor of land intruders against Torrens title holders, who spent months, or even years, in order to register their land, and who religiously paid real property taxes thereon. They cannot immediately repossess their properties simply because they have to prove their literal and physical possession of their property prior to the controversy. The Torrens title holders would have to resort to ordinary civil procedure by filing either an *accion publiciana* or *accion reivindicatoria* and undergo arduous and protracted litigation while the intruders continuously enjoy and rip the benefits of another man's land. It will defeat the very purpose of the summary procedure of an action for forcible entry.

⁴³ G.R. No. 172011, March 7, 2011, 644 SCRA 516.

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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. Ejectment proceedings are summary in nature so the authorities can speedily settle actions to recover possession because of the overriding need to quell social disturbances.⁴⁴

As to the other requirements of an action for forcible entry, the Court agrees with the RTC that petitioner had sufficiently complied with them. Petitioner proved that he was deprived of possession of the property by stealth. The complaint was also filed on October 30, 2007, within the one year reglementary period counted from the discovery of the stealthy entry by respondent to the property on October 31, 2006.

The second issue raised is the validity of the CA Resolution dated December 5, 2012. Petitioner alleges that the CA denied his reconsideration without indicating its legal basis in violation of the mandate of Section 14, Article VIII of the Constitution, which provides that no petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor. This requirement, however, was complied with when the CA, in its resolution denying petitioner's motion for reconsideration, stated that it "finds no cogent reason to reverse, amend, much less reverse the assailed Decision, dated June 13, 2012."⁴⁵

WHEREFORE, the petition is **GRANTED**. The June 13, 2012 Decision and the December 5, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 122153 are hereby **REVERSED** and **SET ASIDE**. The August 23, 2011 Decision of the Regional Trial Court, Branch 33, Bauang, La Union, is hereby **REINSTATED**.

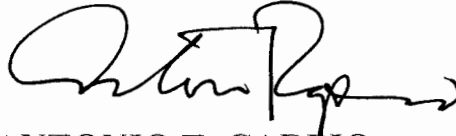
SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

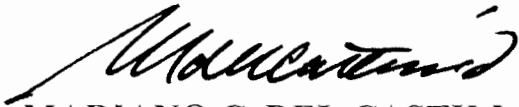
⁴⁴ *Pajuyo v. Court of Appeals*, G.R. No. 146364, June 3, 2004, 430 SCRA 492, 512.

⁴⁵ *Areno, Jr., v. Skycable PCC-Baguio*, G.R. No. 180302, February 5, 2010, 611 SCRA 721, 732-733.

WE CONCUR:



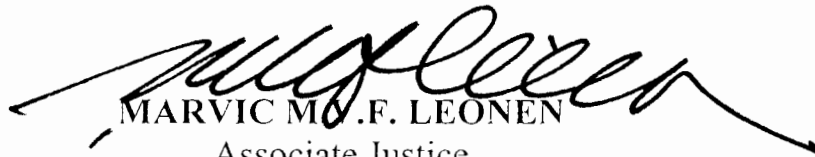
ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



MARVIC M. F. LEONEN
Associate Justice

ATTESTATION

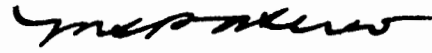
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

