



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**SPOUSES EDMUNDO DELA CRUZ
and AMELIA CONCIO-DELA CRUZ,**
Petitioners,

G.R. No. 176055

Present:

- versus -

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
MENDOZA, * *JJ.*

**SPOUSES RUFINO R. CAPCO AND
MARTY¹ C. CAPCO,**
Respondents.

Promulgated:

MAR 17 2014 *HOWKataloqBogetio*
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DECISION

DEL CASTILLO, J.:

This case involves two spouses battling for the material possession of a piece of land.

Assailed in this Petition for Review on *Certiorari* is the August 18, 2006 Decision² of the Court of Appeals (CA) in CA-G.R. SP No. 90736 which (1) granted the petition for review filed therewith by respondents spouses Rufino R. Capco and Marty C. Capco (spouses Capco); (2) set aside the January 20, 2005 Decision³ and June 27, 2005 Omnibus Order⁴ of the Regional Trial Court (RTC) of Pasig City, Branch 153; and (3) dismissed the Complaint for Unlawful Detainer filed by petitioners spouses Edmundo Dela Cruz and Amelia Concio-Dela Cruz (spouses Dela Cruz) against the spouses Capco. Likewise questioned is the December 21, 2006 Resolution⁵ which denied the spouses Dela Cruz' Motion for Reconsideration thereto.

* Per Raffle dated March 3, 2014.

¹ Also reads as Marta in some parts of the records.

² CA *rollo*, pp. 274-285; penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Andres B. Reyes, Jr. and Estela M. Perlas-Bernabe (now a Member of this Court).

³ Records, pp. 298-301; penned by Judge Briccio C. Ygafia.

⁴ Id. at 365-367.

⁵ CA *rollo*, pp. 301-302.

Factual Antecedents

On October 6, 2003, the spouses Dela Cruz filed a Complaint⁶ for Unlawful Detainer against the spouses Capco before the Metropolitan Trial Court (MeTC) of Pateros. They alleged that Teodora T. Concio (Teodora), mother of petitioner Amelia Concio-Dela Cruz (Amelia), acquired ownership over a piece of land by virtue of a Decision dated October 3, 1983 rendered by the RTC of Pasig, Branch 151 in Land Registration Case No. 9511. The said property was eventually registered in her name under Transfer Certificate of Title (TCT) No. 31873. Teodora, out of neighborliness and blood relationship, tolerated the spouses Capco's occupation thereof.

Subsequently, the subject property was conveyed to the spouses Dela Cruz. Intending to construct a house thereon and utilize the space for their *balut* and salted eggs business, the spouses Dela Cruz thus demanded that the spouses Capco vacate the property. As the spouses Capco refused, the matter was brought before the *Barangay Lupon* for conciliation wherein several meetings were held but to no avail.⁷ Hence, the said Complaint.

In their Answer, the spouses Capco pointed out that the Complaint is defective for failing to allege the exact metes and bounds of the property. Neither is a title attached thereto to show that the spouses Dela Cruz are the owners of the disputed property. Be that as it may, the spouses Capco asserted that they have all the rights to occupy the subject property since respondent Rufino Capco (Rufino) is an heir of its true owner. In fact, they established their *balutan* business and built their house thereon as early as 1947. By way of counterclaim, the spouses Capco prayed that the spouses Dela Cruz be ordered to pay them exemplary damages, attorney's fees and litigation expenses.

The exhibits submitted by the spouses Dela Cruz, included, among others, copies of the (1) RTC Decision dated October 3, 1983 in Land Registration Case No. 9511;⁸ (2) TCT No. 31873 in the name of Teodora;⁹ and, (3) Deed of Extra-Judicial Settlement of the Estate of Teodora T. Concio wherein her heirs agreed to assign, transfer and convey the property to Amelia.¹⁰ For their part, the spouses Capco presented (1) two 1993 tax declarations covering their house and a camarin which both stand on a lot owned by Juan E. Cruz (Juan)¹¹ and (2) several receipts evidencing their payment of real property taxes.¹²

⁶ Records, pp. 1-7; docketed as Civil Case No. 1210-03 and raffled to Branch 73 of the said court.

⁷ Id. at 8-11 and 17-19.

⁸ Id. at 112-117.

⁹ Id. at 92.

¹⁰ Id. at 93-99.

¹¹ Tax Declaration Nos. C-002-00025 and C-002-00026; id. at 234-235.

¹² Id. at 235-242.

Ruling of the Metropolitan Trial Court

The MeTC rendered a Decision¹³ on July 9, 2004. It did not give credence to the spouses Capco's assertion that the Complaint did not properly identify the property and instead found sufficient the identification of the same through the technical description in TCT No. 31873 submitted by the spouses Dela Cruz.

Anent the conflicting claims of the parties as to their right to possess the subject property, the MeTC endeavored to ascertain the source of the parties' claimed rights, *viz*:

x x x Plaintiff Amelia Concio-dela Cruz is the daughter of the late Teodora Tulad Concio, to whom the property subject matter of the instant case and which is covered by TCT No. 31873 was registered. Prior to the issuance of TCT No. 31873 in the name of [Amelia's] mother, the subject property used to form part of one-half of a property owned by one Juan Cruz, which was previously administered by one Gregorio Reyes, the grandfather of herein defendant Rufino Capco. This property owned by Juan Cruz was later involved in a family land dispute upon his death after the son of Gregorio Reyes, Hermogenes Reyes, instituted an action to have the subject property registered in the latter's name. But [the spouses Dela Cruz'] predecessor-in-interest Teodora Tulad Concio filed her opposition to the application.

In a decision rendered by the said court, one-half of that property was adjudicated in favor of Hermogenes Reyes, and the other half was awarded to Teodora Tulad Concio x x x. The subject decision paved the way for the issuance of TCT No. 31873 in the name of Teodora Tulad Concio x x x and TCT No. 31874 in the name of Hermogenes Reyes.

Notwithstanding the decision of the Regional Trial Court in the Land Registration proceedings and the consequent issuance of TCT No. 31873 in favor of Teodora Tulad Concio, [the spouses Capco] remained in possession of the subject property by reason of the tolerance extended to them by the Concios.

Upon the death, however, of Teodora Tulad Concio on August 31, 1993, her heirs including plaintiff Amelia T. Concio, executed a Deed of Extra-Judicial Settlement of the Estate of Teodora Concio. In that extrajudicial settlement dated May 14, 2002, all the heirs adjudicated upon themselves the property covered by TCT No. 31783 and thereafter assigned, transferred and conveyed to plaintiff Amelia T. Concio-Dela Cruz and her heirs, assigns and successors the said property.¹⁴

Based on this, the MeTC rejected the spouses Capco's claimed right to possess the subject property as follows:

¹³ Id. at 243-250; penned by Judge Marilou D. Runes-Tamang.

¹⁴ Id. at 245.

x x x [T]he [spouses Capco's] stay in the subject premises was originally lawful as they based it then from their right as heirs of the lawful possessor thereof, Mr. Hermogenes Reyes, who initially caused the application of title in his name of that parcel of land which included the lot now subject matter of this case. That right of the [spouses Capco], however, ceased when the Land Registration Court in that application for land title filed by Reyes ruled that only one-half of that property being applied for shall be titled in his name while the other half, which is now the subject of this complaint shall be adjudged in favor of Oppositor Teodora Concio Tulad, the [spouses Dela Cruz'] predecessor-in-interest.

Since title to the property which the [spouses Capco] are now occupying had already been legally transferred to Teodora Concio Tulad, the right of the former in occupying the same is deemed to have been anchored from the right of the latter as owner of the subject land. The court is, therefore, of the considered view that [the spouses Capco's] continued stay in the property covered by TCT No. 31783 was truly through the sheer generosity and tolerance of the registered owner Teodora Concio Tulad during her lifetime and extended only upon her death by her successor-in-interest, the [spouses Dela Cruz].¹⁵

The MeTC concluded that since the spouses Capco's possession of the subject property was by mere tolerance of the spouses Dela Cruz, the latter have the better right to possess and thus may recover the same upon demand. Hence, the dispositive portion of its Decision:

VIEWED FROM THE FOREGOING, judgment is hereby rendered in favor of [the spouses Dela Cruz] and against [the spouses Capco], ordering the latter and all persons claiming rights under them to vacate the subject land being occupied by them which is covered by TCT No. 31873 located at Interior P. Herrera St., Pateros, Metro Manila, and surrender possession thereof to the plaintiffs, and to pay the following:

- a. Php500.00 a month as reasonable compensation with legal interest thereon from September 1, 2003, until the subject property is finally vacated;
- b. Php20,000.00, as and by way of attorney's fees; and,
- c. Costs of suit.

SO ORDERED.¹⁶

The spouses Capco appealed to the RTC.¹⁷

¹⁵ Id. at 248.

¹⁶ Id. at 250.

¹⁷ Id. at 252-253 and 257.

Ruling of the Regional Trial Court

The RTC did not find merit in the spouses Capco's appeal,¹⁸ hence, the dispositive portion of its January 20, 2005 Decision reads:¹⁹

WHEREFORE, foregoing premises duly considered, the appealed decision is affirmed in toto.

SO ORDERED.²⁰

In view of the Decision of the RTC, the spouses Dela Cruz filed a Motion to Remand and Direct Court of Origin to Issue a Writ of Execution,²¹ and later, a Motion to Withdraw Back Rentals under Judicial Custody.²² The spouses Capco, for their part, moved for the reconsideration of the RTC Decision.²³ These motions were resolved by the RTC through an Omnibus Order²⁴ dated June 27, 2005, viz:

WHEREFORE, in the light of the foregoing premises, for being pro forma, the motion for reconsideration is DENIED.

Further, the Motion to Remand is GRANTED and the Motion To Withdraw Back Rentals is deferred for the consideration of the court of origin.

SO ORDERED.²⁵

Undeterred, the spouses Capco filed a Petition for Review with the CA.

Ruling of the Court of Appeals

The CA found in favor of the spouses Capco in its Decision²⁶ of August 18, 2006.

Citing *Go, Jr. v. Court of Appeals*²⁷ and *Heirs of Demetrio Melchor v. Melchor*,²⁸ it declared that a complaint for unlawful detainer must aver facts showing that the [MeTC] has jurisdiction to try the case by describing how the

¹⁸ Docketed as SCA Case No. 2695 and raffled to Branch 153 of the RTC of Pasig City.

¹⁹ Records, pp. 298-301.

²⁰ Id. at 301.

²¹ Id. at 310-319.

²² Id. at 347-352.

²³ Id. at 328-334.

²⁴ Id. at 365-367.

²⁵ Id. at 367.

²⁶ CA rollo, pp. 274-285.

²⁷ 415 Phil. 172 (2001).

²⁸ 461 Phil. 437 (2003).

defendant's entry was effected or how and when dispossession started. It found the Complaint wanting in this aspect, thus:

In this case, the [spouses Dela Cruz'] complaint merely alleged that the [spouses Capco's] possession of the property was by the tolerance of their predecessors-in-interest and 'out of neighborliness and blood relationship'. The evidence presented or adduced before the [MeTC] does not show how the [spouses Capco] came into possession. x x x²⁹

Moreover, the CA observed that while the spouses Dela Cruz claimed that their property pertains to half of the land previously belonging to Juan that was later adjudicated to Teodora by virtue of the judgment in aforementioned land registration case, it is not clear whether the portion occupied by the spouses Capco lies therein or in the other half adjudicated in favor of Hermogenes Reyes. In view of this, it opined that there is a need to physically determine the exact boundaries of the land covered by TCT No. 31873 which, however, cannot be done in a mere summary proceeding in an ejectment case but rather in an *accion publiciana* or *accion reivindicatoria* before the RTC.

Hence, the CA disposed of the petition in this wise:

WHEREFORE, the instant petition is GRANTED. The decision dated January 20, 2005 and omnibus order dated June 27, 2005 of the RTC, Branch 153, Pasig City in SCA Case No. 2695, are SET ASIDE. In lieu thereof, the complaint is DISMISSED for reasons discussed therein.

SO ORDERED.³⁰

As their Motion for Reconsideration³¹ was denied in the CA Resolution³² of December 21, 2006, the spouses Dela Cruz are now before this Court through this Petition for Review on *Certiorari* ascribing error upon the CA in setting aside the rulings of the MeTC and the RTC.

Parties' Arguments

The spouses Dela Cruz assert that contrary to the CA's findings, they were able to describe with particularity the property subject of the case through the technical description in TCT No. 31873. Besides, the spouses Capco admitted in the Pre-Trial Conference that the property occupied by them is the same property which is the subject of the case. The CA likewise erred in not considering as

²⁹ CA rollo, p. 282.

³⁰ Id. at 285.

³¹ Id. at 289-293.

³² Id. at 301-302.

settled the issue of ownership of the land per the judgment in the land registration case and in not recognizing their right to possess based thereon.

On the other hand, the spouses Capco reiterate that they are the rightful possessors of the property as Rufino is an heir of the true owner. They stress that they have been occupying the same as early as 1947, have established their home and business thereon, and introduced improvements which are even of higher value than the land itself. In contrast, the spouses Dela Cruz failed to present before the MeTC any title showing that they are the owners of the subject property. Also, their Complaint is fatally defective for failing to allege the exact metes and bounds of the property which possession they sought to recover. The spouses Capco likewise question TCT No. 31873 of Teodora by contending that the Agreement of Subdivision³³ used as basis for its issuance is spurious. According to them, Teodora could not have executed the said agreement on June 23, 1998 since she died on August 31, 1993.

Our Ruling

We grant the Petition.

It must be stated at the outset that this Court is not a trier of facts. However, the conflicting findings of facts of the MeTC and the RTC on one hand, and the CA on the other, compel us to revisit the records of this case for proper dispensation of justice.³⁴

Contrary to the CA's pronouncement, the Complaint sufficiently makes out a case for unlawful detainer.

The CA intimated in its assailed Decision that the MeTC did not acquire jurisdiction over the spouses Dela Cruz' Complaint for ejectment since the same failed to describe how the spouses Capco's entry to the property was effected or how and when the dispossession started, as held in *Go and Melchor*. Such a requirement, however, does not apply in this case. The Court has already clarified in *Delos Reyes v. Odone*s³⁵ that:

The requirement that the complaint should aver, as jurisdictional facts, when and how entry into the property was made by the defendants applies only when the issue is the timeliness of the filing of the complaint before the MTC x x x.

³³ Rollo, pp. 66-67.

³⁴ *Continental Cement Corporation v. Filipinas (PREFAB) Systems, Inc.*, G.R. Nos. 176917 & 176919, August 4, 2009, 595 SCRA 215, 224-225.

³⁵ G.R. No. 178096, March 23, 2011, 646 SCRA 328.

This is because, in forcible entry cases, the prescriptive period is counted from the date of defendants' actual entry into the property; whereas, in unlawful detainer cases, it is counted from date of the last demand to vacate. Hence, to determine whether the case was filed on time, there is a necessity to ascertain whether the complaint is one for forcible entry or for unlawful detainer; and since the main distinction between the two actions is when and how defendant entered the property, the determinative facts should be alleged in the complaint.³⁶

The timeliness of the filing of the Complaint for unlawful detainer is not an issue in this case. Hence, the failure of the Complaint to allege when and how the spouses Capco came into possession of the property does not mean that the MeTC did not acquire jurisdiction over it. "To give the court jurisdiction to effect the ejectment of an occupant or deforciant on the land, it is necessary that the complaint should embody such a statement of facts as brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol testimony."³⁷

A complaint, to sufficiently make out a case for unlawful detainer and fall under the jurisdiction of the MeTC, must allege that:

1. initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
2. eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and;
4. within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.³⁸

Here, the Complaint alleged that the spouses Dela Cruz' predecessor-in-interest, Teodora, is the registered owner of the property per TCT No. 31873 and that she tolerated the spouses Capco's occupation of the lot. The spouses Dela Cruz subsequently acquired the property through conveyance and they extended the same tolerance to the spouses Capco. The spouses Dela Cruz demanded for the spouses Capco to vacate the property but to no avail; hence, they sent the latter a formal demand letter which, per the attached copy to the Complaint, is dated September 1, 2003.³⁹ The Complaint was filed on October 6, 2003 or within one year from the time the formal demand to vacate was made. Clearly, the

³⁶ Id. at 335-336.

³⁷ *Arcal v. Court of Appeals*, 348 Phil. 813, 823-824 (1998).

³⁸ *Delos Reyes v. Odonez*, supra note 35 at 334-335.

³⁹ Records, p. 14.

Complaint sufficiently established a case for unlawful detainer as to vest the MeTC jurisdiction over it.

The lot occupied by the spouses Capco and the lot over which the spouses Dela Cruz claim to have a better right to possess pertain to the same property.

The CA opined that there is a need to determine if the lot occupied by the spouses Capco really forms part of the property over which the spouses Dela Cruz claim to have a better right to possess.

The Court, however, thinks otherwise.

One of the three issues defined during the preliminary conference is “whether or not the [spouses Capco] are occupying the subject property by mere tolerance of the plaintiffs”.⁴⁰ It is therefore safe to conclude that there is no dispute with respect to the identity of the property. What was clearly up for resolution before the MeTC was only the question of whether the spouses Capco are occupying the property by mere tolerance of the spouses Dela Cruz.

Moreover, the evidence submitted in this case establishes that the lot subject of this Complaint for ejectment is the same lot being occupied by the spouses Capco. As mentioned, the spouses Capco submitted tax declarations covering their house and a camarin as well as the corresponding receipts evidencing their payments of real property taxes. Notably, the declared owner of the lot on which these properties stand, as written in the receipts for the years 1995, 1996, 1997 and 1998, is Juan.⁴¹ Yet, the receipts for the years 2000, 2001, 2002, and 2003 no longer reflect Juan as the owner but Teodora.⁴² This change tends to support the conclusion that the lot occupied by the spouses Capco, which was previously owned by Juan, is the portion adjudicated in favor of the spouses Dela Cruz’ predecessor-in-interest, Teodora. This is further confirmed by the affidavit of the Municipal Assessor of Pateros, Mr. Emmanuel España.⁴³ Besides, the spouses Capco appear to have acknowledged the fact that the spouses Dela Cruz owned the lot that they are occupying. As shown by the records during the first meeting before the *Barangay Lupon*, respondent Marty C. Capco asked

⁴⁰ See MeTC Order dated April 28, 2004, *id.* at 218-219, at 219.

⁴¹ *Id.* at 235-238.

⁴² *Id.* at 239-242.

⁴³ *Id.* 176-182. Pertinent portions of which read:

17. Question – Is the House of Rufino Capco covered by any Tax Declaration?

Answer – Yes, Tax Declaration, No. D-002-00024.

18. – On whose land is the House of Rufino Capco situated according to the Tax Declaration?

Answer – On the land covered by T.C.T. No. 31873, Teodora T. Concio. (Formerly covered by Tax Declaration under Juan Cruz).

Amelia if the latter could just sell the lot to them [the spouses Capco] so that their business built thereon would not suffer.⁴⁴

It is thus clear that the lot being occupied by the spouses Capco is the same lot over which the spouses Dela Cruz claim to have a better right to possess. Contrary therefore to the CA's pronouncement, there is no need to physically determine the extent of the land covered by T.C.T. No. 31873.

The spouses Dela Cruz are able to establish by preponderance of evidence that they are the rightful possessors of the property.

“The only issue in an ejectment case is the physical possession of real property – possession *de facto* and not possession *de jure*.”⁴⁵ But “[w]here the parties to an ejectment case raise the issue of ownership, the courts may pass upon that issue to determine who between the parties has the better right to possess the property.”⁴⁶ Here, both parties anchor their right to possess based on ownership, *i.e.*, the spouses Dela Cruz by their own ownership while the spouses Capco by the ownership of Rufino as one of the heirs of the alleged true owner of the property. Thus, the MeTC and the RTC correctly passed upon the issue of ownership in this case to determine the issue of possession. However, it must be emphasized that “[t]he adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.”⁴⁷

The spouses Dela Cruz were able to prove by preponderance of evidence that they are the owners of the lot. Their allegation that the subject property was adjudicated to Teodora by virtue of a decision in a land registration case and was later conveyed in their favor, is supported by (1) a copy of the Decision in the said land registration case; (2) the title of the land issued to Teodora (TCT No. 31873), and, (3) the Deed of Extra-Judicial Settlement of the Estate of Teodora wherein the latter's heirs agreed to convey the said property to Amelia.

The spouses Capco, on the other hand, aside from their bare allegation that respondent Rufino is an heir of the true owners thereof, presented nothing to support their claim. While they submitted receipts evidencing their payments of the realty taxes of their house and the camarin standing in the subject property, the same only militates against their claim since the latest receipts indicate Teodora as the owner of the land. Moreover, the spouses Capco's attempt to attack the title of

⁴⁴ Id. at 8-9.

⁴⁵ *Beltran v. Nieves*, G.R. No. 175561, October 20, 2010, 634 SCRA 242, 248.

⁴⁶ *Corpuz v. Agustin*, G.R. No. 183822, January 18, 2012, 663 SCRA 350, 358.

⁴⁷ Id.

Teodora is futile. "It has repeatedly been emphasized that when the property is registered under the Torrens system, the registered owner's title to the property is presumed legal and cannot be collaterally attacked, especially in a mere action for unlawful detainer. It has even been held that it does not even matter if the party's title to the property is questionable."⁴⁸


All told, the Court agrees with the MeTC's conclusion, as affirmed by the RTC, that the spouses Dela Cruz are better entitled to the material possession of the subject property. As its present owners, they have a right to the possession of the property which is one of the attributes of ownership.


WHEREFORE, the Petition is **GRANTED**. The August 18, 2006 Decision and the December 21, 2006 Resolution of the Court of Appeals in CA-G.R. No. 90736 are **ANNULLED and SET ASIDE**. The January 20, 2005 Decision of the Regional Trial Court of Pasig City, Branch 153, and the July 9, 2004 Decision of the Metropolitan Trial Court of Pateros, Branch 73 are **REINSTATED and AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice

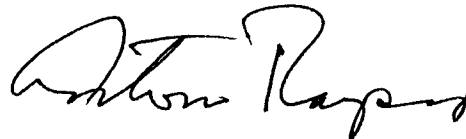

JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

⁴⁸ *Go v. LooYuko*, G.R. No. 196529, July 1, 2013.

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***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*