



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

AMADA C. ZACARIAS,
Petitioner,

G.R. No. 202354

Present:

- versus -

VELASCO, JR., J., *Chairperson,*
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

VICTORIA ANACAY, EDNA
ANACAY, CYNTHIA ANACAY-
GUISIC, ANGELITO ANACAY,
JERMIL ISRAEL, JIMMY ROY
ISRAEL and all other persons
claiming authority under them,
Respondents.

Promulgated:

September 24, 2014

X-----*Supra Signatur*-----X

DECISION

VILLARAMA, JR., J.:

Assailed in this petition for review under Rule 45 is the Decision¹ dated June 20, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 123195 which reversed the Decision² dated August 22, 2011 of the Regional Trial Court (RTC) of Cavite, Branch 18, Tagaytay City and affirmed the Decision³ dated October 8, 2010 of the Municipal Circuit Trial Court (MCTC) of Amadeo-Silang, Cavite, Branch 17 in Civil Case No. 862.

The present controversy stemmed from a complaint⁴ for Ejectment with Damages/Unlawful Detainer filed on December 24, 2008 by petitioner Amada Zacarias thru her son and attorney-in-fact, Cesar C. Zacarias, against the above-named respondents, Victoria Anacay and members of her household. Said respondents are the occupants of a parcel of land with an

¹ *Rollo*, pp. 30-43. Penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Franchito N. Diamante and Edwin D. Sorongon.

² *Id.* at 100-107. Penned by Acting Presiding Judge Emma S. Young.

³ *Id.* at 66-87. Penned by Presiding Judge Ma. Victoria N. Cupin-Tesorero.

⁴ *Records*, pp. 1-6.

area of seven hundred sixty-nine (769) square meters, situated at Barangay Lalaan 1st, Silang, Cavite and covered by Tax Declaration No. 18-026-01182 in the name of petitioner and issued by Municipal Assessor Reynaldo L. Bayot on August 31, 2007.

The parties were ordered to proceed to the Philippine Mediation Center pursuant to Section 2(a), Rule 18 of the 1997 Rules of Civil Procedure, as amended. Mediation was unsuccessful and thus the case was returned to the court.⁵

After due proceedings, the MCTC rendered a Decision dismissing the complaint, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is, hereby, rendered in favor of defendants Victoria Anacay, Edna Anacay, Santiago Amerna, Raymond and Cynthia Guisic, Angelito Anacay and Myrlinda Yalo, and all persons acting under them, and against plaintiff Amada C. Zacarias, represented by her attorney-in-fact, Cesar C. Zacarias, the instant Complaint for ejectment with damages, Unlawful Detainer is, hereby, **DISMISSED.**

SO ORDERED.⁶

The MCTC held that the allegations of the complaint failed to state the essential elements of an action for unlawful detainer as the claim that petitioner had permitted or tolerated respondents' occupation of the subject property was unsubstantiated. It noted that the averments in the demand letter sent by petitioner's counsel that respondents entered the property through stealth and strategy, and in petitioner's own "Sinumpaang Salaysay", are more consistent with an action for forcible entry which should have been filed within one year from the discovery of the alleged entry. Since petitioner was deprived of the physical possession of her property through illegal means and the complaint was filed after the lapse of one year from her discovery thereof, the MCTC ruled that it has no jurisdiction over the case.

On appeal to the RTC, petitioner argued that unlawful detainer was the proper remedy considering that she merely tolerated respondents' stay in the premises after demand to vacate was made upon them, and they had in fact entered into an agreement and she was only forced to take legal action when respondents reneged on their promise to vacate the property after the lapse of the period agreed upon.

In reversing the MCTC, the RTC pointed out that in her complaint, petitioner did not state that respondents entered her property through stealth and strategy but that petitioner was in lawful possession and acceded to the request of respondents to stay in the premises until May 2008 but

⁵ Id. at 54-56.

⁶ *Rollo*, p. 87.

respondents' reneged on their promise to vacate the property by that time. It held that the suit is one for unlawful detainer because the respondents unlawfully withheld the property from petitioner after she allowed them to stay there for one year.

With the subsequent oral agreement between the parties, the RTC ruled that respondents' occupation of the property without petitioner's consent can be converted to a contract, such agreement not being prohibited by law nor contrary to morals or good customs. Having satisfied the requisites for an unlawful detainer action, the RTC found that petitioner's complaint was filed within the prescribed one-year period counted from the time the final demand to vacate was received by the respondents on July 24, 2008.

The *fallo* of the Decision of the RTC states:

WHEREFORE, premises considered, the Decision of the Municipal Circuit Trial Court of Silang-Amadeo dated October 8, 2010 is hereby REVERSED AND SET ASIDE and a new one is entered ordering the defendants and all claiming under their rights to: (1) vacate the subject property and surrender possession and control over the same to the plaintiff; Pay the sum of Two Thousand (P2,000.00) Pesos each as rentals or compensation for the use thereof starting from July 2008 until the same is paid in full, with interests thereon at twelve (12%) percent per annum; (2) pay the sum of Fifty Thousand (P50,000.00) Pesos, as moral damages; (3) pay the sum of Ten Thousand (P10,000.00) Pesos, as exemplary damages; and (4) pay the sum of Twenty Thousand (P20,000.00) Pesos, as attorney's fees.

SO ORDERED.⁷

With the failure of respondents to file a notice of appeal within the reglementary period, the above decision became final and executory.⁸

On November 28, 2011, petitioner filed a motion for issuance of a writ of execution. At the hearing held on January 4, 2012, respondents were given a period of ten days within which to file their comment. At the next scheduled hearing on February 6, 2012, respondents' counsel appeared and submitted a Formal Entry of Appearance with Manifestation informing the court that on the same day they had filed a petition for certiorari with prayer for injunction before the CA, copies of which were served to petitioner thru her counsel and to the RTC. Nonetheless, in its Order dated February 6, 2012, the RTC stated that said manifestation was "tantamount to [a] comment to the pending motion" and thus gave petitioner's counsel a period of ten (10) days within which to file her Reply and thereafter the incident will be submitted for resolution.⁹

⁷ Id. at 107.

⁸ Records, p. 202.

⁹ Id. at 203-209, 212-229.

On June 20, 2012, the CA rendered its Decision, the dispositive portion of which reads:

WHEREFORE, the petition is **GRANTED**. Accordingly, the assailed Order dated August 22, 2011 rendered by the Regional Trial Court of Cavite, 4th Judicial Region, Branch 18, Tagaytay City is **REVERSED** and **SET ASIDE**. The Decision dated October 8, 2010 rendered by the Municipal Circuit Trial Court, Branch 17 is **AFFIRMED**.

SO ORDERED.¹⁰

The CA held that the MCTC clearly had no jurisdiction over the case as the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer. Since the prescriptive period for filing an action for forcible entry has lapsed, petitioner could not convert her action into one for unlawful detainer, reckoning the one-year period to file her action from the time of her demand for respondents to vacate the property.

Further, the CA said that while petitioner has shown that she is the lawful possessor of the subject property, she availed of the wrong remedy to recover possession but nevertheless may still file an *accion publiciana* or *accion reivindicatoria* with the proper regional trial court.

Petitioner contends that the CA erred and committed grave abuse of discretion amounting to lack and/or excess of jurisdiction in nullifying the judgment of the RTC which has long become final and executory. She argues that the suspension of the strict adherence to procedural rules cannot be justified by unsupported allegations of the respondents as to supposed non-receipt of documents concerning this case.

On their part, respondents maintain that they were not aware of the proceedings before the RTC and were not furnished a copy of the said court's adverse decision. They also stress that resort to certiorari was proper and the suspension of procedural rules was justified by compelling circumstances such as the imminent destruction of the only property possessed by respondents who are indigent, respondents' lack of awareness of unfavorable judgment rendered on appeal by the RTC, substantive merits of the case insofar as the jurisdictional requirements in a suit for unlawful detainer, lack of showing that resort to certiorari petition was frivolous and dilatory, and there being no prejudice caused to the other party.

After a thorough review of the records and the parties' submissions, we find neither reversible error nor grave abuse of discretion committed by the CA.

The invariable rule is that what determines the nature of the action, as well as the court which has jurisdiction over the case, are the allegations in

¹⁰ *Rollo*, p. 42.

the complaint.¹¹ In ejectment cases, the complaint should embody such statement of facts as to bring the party clearly within the class of cases for which Section 1¹² of Rule 70 provides a summary remedy, and must show enough on its face to give the court jurisdiction without resort to parol evidence.¹³ Such remedy is either forcible entry or unlawful detainer. In forcible entry, the plaintiff is deprived of physical possession of his land or building by means of force, intimidation, threat, strategy or stealth. In illegal detainer, the defendant unlawfully withholds possession after the expiration or termination of his right thereto under any contract, express or implied.¹⁴

The MCTC and CA both ruled that the allegations in petitioner's complaint make out a case for forcible entry but not for unlawful detainer.

In *Cabrera v. Getaruela*,¹⁵ the Court held that a complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

- (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.¹⁶

In this case, the Complaint alleged the following:

3. Plaintiff is the owner of that parcel of land situated at Barangay Lalaan 1st, Silang, Cavite with an area of SEVEN HUNDRED SIXTY NINE (769) SQUARE METERS, and covered by Tax Declaration No. 18-026-01182 issued by the Municipal Assessor of Silang, Cavite. Copy of said tax declaration is hereto attached as **Annex "B"**;

4. Plaintiff was in lawful possession and control over the subject property. She had it planted to Bananas and other fruit bearing trees. However, sometime in May, 2007, she discovered that the defendants have

¹¹ *Pagadora v. Ilao*, G.R. No. 165769, December 12, 2011, 662 SCRA 14, 30.

¹² SECTION 1. *Who may institute proceedings, and when.* – Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

¹³ *Pagadora v. Ilao*, supra note 11, at 30-31, citing *Delos Reyes v. Odone*, G.R. No. 178096, March 23, 2011, 646 SCRA 328, 334 and *Sarmienta v. Manalite Homeowners Association, Inc. (MAHA)*, G.R. No. 182953, October 11, 2010, 632 SCRA 538, 545-546.

¹⁴ *Del Rosario v. Sps. Manuel*, 464 Phil. 1053, 1057 (2004).

¹⁵ 604 Phil. 59, 66 (2009).

¹⁶ As cited in *Canlas v. Tubil*, 616 Phil. 915, 925 (2009).

entered the subject property and occupied the same;

5. Consequently, Plaintiff demanded that they leave the premises. The defendants requested for time to leave and she acceded to said request. The defendants committed to vacate the subject property by the end of May, 2008;

6. In spite of several repeated demands, defendants unjustifiably refused to vacate the subject premises prompting the Plaintiff to seek the assistance of a lawyer who wrote them a FORMAL and FINAL DEMAND to vacate the premises and to pay reasonable compensation for their illegal use and occupancy of the subject property. A copy of the DEMAND LETTER is hereto attached as Annex “C”;

7. Plaintiff also referred this matter to the Lupon Tagapamayapa of Barangay Lalaan 1st for possible conciliation but to no avail as the defendants still refused to vacate the subject property. Thus, the said Barangay issued a CERTIFICATION TO FILE ACTION, as evidenced by a copy thereto attached as Annex “D”;

x x x x¹⁷

The above complaint failed to allege a cause of action for unlawful detainer as it does not describe possession by the respondents being initially legal or tolerated by the petitioner and which became illegal upon termination by the petitioner of such lawful possession. Petitioner’s insistence that she actually tolerated respondents’ continued occupation after her discovery of their entry into the subject premises is incorrect. As she had averred, she discovered respondents’ occupation in May 2007. Such possession could not have been legal from the start as it was *without her knowledge or consent*, much less was it based on any contract, express or implied. We stress that the possession of the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess.¹⁸

In *Valdez v. Court of Appeals*,¹⁹ the Court ruled that where the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer, the municipal trial court had no jurisdiction over the case. Thus:

To justify an action for unlawful detainer, it is essential that the plaintiff’s supposed acts of tolerance must have been present right from the start of the possession which is later sought to be recovered. Otherwise, if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy. As explained in *Sarona v. Villegas*:

But even where possession preceding the suit is by tolerance of the owner, still, distinction should be made.

¹⁷ Records, pp. 2-3.

¹⁸ *Canlas v. Tubil*, supra note 16, at 924, citing *Valdez v. Court of Appeals*, 523 Phil. 39, 46 (2006).

¹⁹ *Id.* at 47-51.

If right at the incipency defendant's possession was with plaintiff's tolerance, we do not doubt that the latter may require him to vacate the premises and sue before the inferior court under Section 1 of Rule 70, within one year from the date of the demand to vacate.

X X X X

A close assessment of the law and the concept of the word "tolerance" confirms our view heretofore expressed that such tolerance must be present right from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer - not of forcible entry. Indeed, to hold otherwise would espouse a dangerous doctrine. And for two reasons: *First*. Forcible entry into the land is an open challenge to the right of the possessor. Violation of that right authorizes the speedy redress – in the inferior court - provided for in the rules. If one year from the forcible entry is allowed to lapse before suit is filed, then the remedy ceases to be speedy; and the possessor is deemed to have waived his right to seek relief in the inferior court. *Second*, if a forcible entry action *in the inferior court* is allowed after the lapse of a number of years, then the result may well be that no action of forcible entry can really prescribe. No matter how long such defendant is in physical possession, plaintiff will merely make a demand, bring suit in the inferior court – upon a plea of tolerance to prevent prescription to set in - and summarily throw him out of the land. Such a conclusion is unreasonable. Especially if we bear in mind the postulates that proceedings of forcible entry and unlawful detainer are summary in nature, and that the one year time-bar to suit is but in pursuance of the summary nature of the action. (Italics and underscoring supplied)

It is the nature of defendant's entry into the land which determines the cause of action, whether it is forcible entry or unlawful detainer. If the entry is illegal, then the action which may be filed against the intruder is forcible entry. If, however, the entry is legal but the possession thereafter becomes illegal, the case is unlawful detainer.

Indeed, to vest the court jurisdiction to effect the ejectment of an occupant, 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 the court jurisdiction without resort to parol testimony.

The jurisdictional facts must appear on the face of the complaint. When the complaint fails to aver facts constitutive of forcible entry or unlawful detainer, as where it does not state how entry was affected or how and when dispossession started, the remedy should either be an *accion publiciana* or an *accion reivindicatoria* in the proper regional trial court. Thus, in *Go, Jr. v. Court of Appeals*, petitioners filed an unlawful detainer case against respondent alleging that they were the owners of the parcel of land through intestate succession which was occupied by respondent by mere tolerance of petitioners as well as their deceased

mother. Resolving the issue on whether or not petitioners' case for unlawful detainer will prosper, the court ruled:

Petitioners alleged in their complaint that they inherited the property registered under TCT No. C-32110 from their parents; that possession thereof by private respondent was by tolerance of their mother, and after her death, by their own tolerance; and that they had served written demand on December, 1994, but that private respondent refused to vacate the property. x x x

It is settled that one whose stay is merely tolerated becomes a deforciant illegally occupying the land the moment he is required to leave. **It is essential in unlawful detainer cases of this kind, that plaintiff's supposed acts of tolerance must have been present right from the start of the possession which is later sought to be recovered. This is where petitioners' cause of action fails.** The appellate court, in full agreement with the MTC made the conclusion that the alleged tolerance by their mother and after her death, by them, was unsubstantiated. x x x

The evidence revealed that the possession of defendant was illegal at the inception and not merely tolerated as alleged in the complaint, considering that defendant started to occupy the subject lot and then built a house thereon without the permission and consent of petitioners and before them, their mother. xxx **Clearly, defendant's entry into the land was effected clandestinely, without the knowledge of the owners, consequently, it is categorized as possession by stealth which is forcible entry.** As explained in *Sarona vs. Villegas*, cited in *Muñoz vs. Court of Appeals* [224 SCRA 216 (1992)] tolerance must be present right from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer not of forcible entry x x x.

x x x x

In the instant case, the allegations in the complaint do not contain any averment of fact that would substantiate petitioners' claim that they permitted or tolerated the occupation of the property by respondents. The complaint contains only bare allegations that "respondents without any color of title whatsoever occupies the land in question by building their house in the said land thereby depriving petitioners the possession thereof." **Nothing has been said on how respondents' entry was effected or how and when dispossession started.** Admittedly, no express contract existed between the parties. **This failure of petitioners to allege the key jurisdictional facts constitutive of unlawful detainer is fatal. Since the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer, the municipal trial court had no jurisdiction over the case.** It is in this light that this Court finds that the Court of Appeals correctly found that the municipal trial court had no jurisdiction over the complaint. (Emphasis supplied.)

The complaint in this case is similarly defective as it failed to allege how and when entry was effected. The bare allegation of petitioner that “sometime in May, 2007, she discovered that the defendants have entered the subject property and occupied the same”, as correctly found by the MCTC and CA, would show that respondents entered the land and built their houses thereon clandestinely and without petitioner’s consent, which facts are constitutive of forcible entry, not unlawful detainer. Consequently, the MCTC has no jurisdiction over the case and the RTC clearly erred in reversing the lower court’s ruling and granting reliefs prayed for by the petitioner.

Lastly, petitioner’s argument that the CA gravely erred in nullifying a final and executory judgment of the RTC deserves scant consideration.

It is well-settled that a court’s jurisdiction may be raised at any stage of the proceedings, even on appeal. The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.²⁰ Indeed, a void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void.²¹


WHEREFORE, the petition is **DENIED** for lack of merit. The Decision dated June 20, 2012 of the Court of Appeals in CA-G.R. SP No. 123195 is hereby **AFFIRMED**.

No pronouncement as to costs.

SO ORDERED.



MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

²⁰ *Sales v. Barro*, 594 Phil. 116, 123 (2008), citing *Figueroa v. People*, 580 Phil. 58, 76 (2008).


²¹ *Metropolitan Bank & Trust Company v. Alejo*, 417 Phil. 303, 318 (2001).



DIOSDADO M. PERALTA
Associate Justice




BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

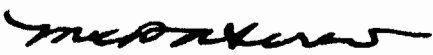
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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

