



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

MARCELA M. DELA CRUZ,
 Petitioner,

G.R. No. 160914

Present:

- versus -

SERENO, *CJ*,
 Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ and
 PERLAS-BERNABE, *JJ*.

ANTONIO Q. HERMANO and his
 wife REMEDIOS HERMANO,
 Respondents.

Promulgated:

MAR 25 2015

x ----- x

DECISION

SERENO, *CJ*:

This is an appeal by way of a Petition for Review on Certiorari assailing the Decision¹ and Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 76446, which reversed the Decision³ of the Regional Trial Court (RTC), Branch 18, Tagaytay City, in Civil Case No. TG-2320. The RTC affirmed the Decision⁴ of the Municipal Trial Court in Cities (MTCC), Branch 1, Tagaytay City in Civil Case No. 471-2002, dismissing respondents' Complaint for Ejectment with Damages against petitioner.

ANTECEDENT FACTS

Respondents Antonio and Remedios Hermano are the registered owners of a house and lot situated in P.B. Constantino Subdivision, Tagaytay City, covered by Transfer Certificate of Title (TCT) No. T-24503. On 13 June 2002, Antonio sued petitioner before the MTCC of Tagaytay

¹Rollo, pp. 35-46; penned by Associate Justice Bernardo P. Abesamis with then CA Associate Justices Mariano C. del Castillo and Arturo D. Brion, now member of this Court, concurring.

²Id. at 47; penned by Associate Justice Mariano C. del Castillo with Associate Justices Jose C. Mendoza and Arturo D. Brion, now members of this Court, concurring.

³Id. at 91-96; penned by Presiding Judge Alfonso S. Garcia.

⁴Id. at 64-69.

City, Branch 1, for ejectment and damages. The material allegations of the Complaint⁵ are as follows:

4. Plaintiff is the registered and lawful owner of a house and lot situated at Lot 2, Block 2, P.B. Constantino Subd., Tagaytay City, as evidenced by Transfer Certificate of Title No. T-24503 issued by the Registry of Deeds for Tagaytay City.

5. Defendant occupied and possessed the aforesaid house and lot sometime on September 1, 2001 pursuant to the alleged Memorandum of Agreement between her and a certain Don Mario Enciso Benitez, without the authority and consent of the plaintiff;

6. The subject property is used by the plaintiff and his family as their rest house/vacation place after a hard days [sic] work in Metro Manila;

7. On September 27, 2001, plaintiff through counsel sent a formal demand letter to the defendant for the latter to vacate and turn over the possession of the property and to pay the rental in the amount of Ps20,000.00 a month starting September 1, 2001.⁶

In her Answer with Counterclaim,⁷ petitioner admitted the existence of TCT No. T-24503, but she contended that the true and actual owner of the property was Don Enciso Benitez (Benitez). Allegedly, Antonio and his wife, respondent Remedios Hermano, had already sold the property to Benitez; the latter, in turn, sold it to petitioner by virtue of a Deed of Absolute Sale,⁸ which they executed on 1 March 2001. Petitioner claimed that Antonio knew about the sale and her immediate occupation of the premises. She also claimed that the place was actually uninhabited when she occupied it and that it was Benitez who had provided the keys thereto. Moreover, Antonio allegedly knew that her caretakers had been managing the property since March 2001, and that he never questioned their presence there. Thus, petitioner contended that estoppel had set in, as he had made her believe that she had the right to occupy and possess the property.⁹

After submission of the parties' Position Papers,¹⁰ the MTCC rendered a Decision¹¹ dated 21 November 2002 dismissing the case for lack of jurisdiction over the subject matter of the Complaint.

The MTCC found that Antonio had, indeed, executed a Deed of Absolute Sale over the subject property in favor of Benitez. The transfer of title, however, was subject to a condition, i.e., Benitez was supposed to broker Antonio's purchase of a property situated in Caloocan City. That condition had not yet been satisfied when Benitez executed the Deed of Sale in favor of petitioner in March 2001. In other words, Antonio still owned the

⁵CA *rollo*, pp. 34-43.

⁶Id. at 35.

⁷CA *rollo*, pp. 44-54.

⁸Id. at 51-52.

⁹Id. at 47-48.

¹⁰Id. at 59-96.

¹¹Supra note 4.

property when Benitez delivered it to petitioner. Even so, Antonio's proper remedy was an action for recovery, instead of the summary proceeding of ejectment, because there was no showing of forcible entry or unlawful detainer.

The MTCC ruled thus:

Culled from the facts obtaining in this case, it appeared that Mr. Antonio O. Hermano had indeed executed a Deed of Absolute Sale of the subject house and lot in favor of Mr. Don Enciso Benitez, but, to the mind of the court, the obligation to deliver the subject property to Don Enciso Benitez depends upon the happening of a condition, that is, when the transaction involving the sale of the said Caloocan City property would have been cleared and consummated; hence, the title to the subject property shall only be transferred to Mr. Benitez if he has complied with such condition, which may be the reason, why the document has remained unnotarized.

While it may be true that the agreement to sell the Hermano property to Mr. Benitez is binding as between the parties, yet, the obligation to deliver the title to the property has not arisen, because Mr. Benitez has yet to perform the condition; thus, title to the property has not been transferred to Mr. Benitez. Thus, when Mr. Benitez sold the same property to defendant, the title to the property shall pass to Mrs. Dela Cruz only upon the happening of condition, that is the delivery of the title to Mr. Benitez by the plaintiff, but, this time it is a mixed condition, the happening of which depends upon the will of third party, Mr. Antonio Hermano, who has yet to await and see the fulfilment of the condition by Mr. Benitez, which as it now appears from the defendant's evidence, is already marred by serious trouble (Annex "6").

True that the defendant is now in possession of the subject property, but she has not yet become the true owner thereof; hence, the plaintiff may yet recover the same from the defendant, but not in an action for forcible entry or unlawful detainer, as there exists none, but in an action for recovery.¹²

Aggrieved, respondents appealed¹³ to the RTC, which rendered a Decision¹⁴ dated 18 March 2003 affirming *en toto* the Decision of the MTCC.

The RTC opined that respondents' Complaint did not clearly show whether it was one for forcible entry or for unlawful detainer. Because it appeared to be an ejectment case, the MTCC took cognizance of it. The parties' subsequent pleadings revealed, however, that the case was actually an *accion reivindicatoria*. Hence, the MTCC properly dismissed it for lack of jurisdiction.¹⁵

¹²Rollo, p. 69.

¹³CA rollo, pp. 103-104.

¹⁴Supra note 3.

¹⁵Rollo, p. 94.

On 10 April 2003, respondent filed a Petition for Review¹⁶ with the CA. The appellate court rendered a Decision¹⁷ dated 28 August 2003 granting the Petition. The dispositive portion reads:

WHEREFORE, premises considered, the instant petition for review is hereby **GRANTED** and the assailed 18 March 2003 Decision of the Regional Trial Court of Tagaytay [City], Branch 18, in **Civil Case No. TG-2320**, is hereby **REVERSED** and **SET ASIDE**. **ACCORDINGLY**, petitioner Antonio Hermano is hereby declared the lawful possessor of the property located at Lot 2, Block 2, P.B. Constantino Subdivision, Tagaytay City covered by Transfer Certificate Title No. T-24503 of the Registry of Deeds of Tagaytay City. Mercy dela Cruz is hereby ordered to **VACATE** the premises in question and **surrender the possession thereof to Antonio Hermano**.

SO ORDERED.¹⁸

The reversal by the CA of the rulings of the courts *a quo* was based on its finding that the case was an ejectment complaint for forcible entry, and that Antonio had sufficiently alleged and proved prior physical possession, as well as petitioner's entry and possession by stealth.¹⁹ Further, the appellate court found that the case was file within the one-year time bar for an ejectment suit, as Antonio came to know of petitioner's possession only on 1 September 2001.²⁰ Accordingly, it ruled that the MTCC erred in dismissing the case. It pointed out that under Batas Pambansa Blg. 129, the inferior courts now retain jurisdiction over an ejectment case, even if the question of possession cannot be resolved without passing upon the issue of ownership. They retain jurisdiction, provided that the resolution of the issue of ownership shall only be for the purpose of determining the issue of possession.²¹

Hence, this Petition for Review.

ISSUE

The issue for resolution is whether Antonio has adequately pleaded and proved a case of forcible entry.

THE COURT'S RULING

The Court **GRANTS** the Petition.

At the outset, the Court notes that the arguments raised here necessarily require a reevaluation of the parties' submissions and the CA's factual findings. Ordinarily, this course of action is proscribed in a petition for review on certiorari; that is, a Rule 45 petition resolves only questions of

¹⁶CA *rollo*, pp. 2-163.

¹⁷Supra. note 1.

¹⁸*Rollo*, p. 45.

¹⁹Id. at 44.

²⁰Id. at 43.

²¹Id. at 44-45.

law, not questions of fact. Moreover, factual findings of the CA are generally conclusive on the parties and are therefore not reviewable by this Court. By way of exception, however, the Court resolves factual issues when the findings of the MTCC and of the RTC differ from those of the CA, as in this case.²²

After an exhaustive review of the case record, the Court finds that the Complaint was sufficient in form and substance, but that there was no proof of prior physical possession by respondents.

The Complaint's allegations sufficiently established the jurisdictional facts required in forcible entry cases.

Section 1, Rule 70 of the Rules of Court, requires that in actions for forcible entry, it must be alleged that the complainant was deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, and that the action was filed anytime within one year from the time the unlawful deprivation of possession took place. This requirement implies that in those cases, possession of the land by the defendant has been unlawful from the beginning, as the possession was obtained by unlawful means. Further, the complainant must allege and prove prior physical possession of the property in litigation until he or she was deprived thereof by the defendant. The one-year period within which to bring an action for forcible entry is generally counted from the date of actual entry into the land, except when entry was made through stealth; if so, the one-year period would be counted from the time the plaintiff learned about it.²³

It is not necessary, however, for the complaint to utilize the language of the statute; i.e., to state that the person has been deprived of possession by force, intimidation, threat, strategy or stealth. A statement of facts showing that dispossession took place under those conditions is sufficient. Still, the complaint must show enough on its face to give the court jurisdiction without resort to parol evidence.²⁴

In the present case, petitioner argues that the Complaint failed to allege prior physical possession, and that the CA skirted the issue of the sufficiency of the allegations therein. Instead, the appellate court allegedly addressed only the principal issue of who had the better right to possess the subject property.

It can be readily seen from the Decision of the CA that it squarely addressed the issue of the sufficiency of the Complaint's allegations. Thus, contrary to the RTC's findings, the CA found that the Complaint had

²²*Nenita Quality Foods Corp. v. Galabo*, G.R. No. 174191, 30 January 2013, 689 SCRA 569.

²³*Ong v. Court of Appeals*, 407 Phil 1045 (2001).

²⁴*Abad v. Farrales*, G.R. No. 178635, 11 April 2011, 647 SCRA 473; *Cajayon v. Batuyong*, 517 Phil 648 (2006); *David v. Cordova*, 502 Phil 626 (2005).

sufficiently alleged respondents' prior physical possession and petitioner's entry into the property by stealth. Moreover, it differed with the RTC's finding that the case was not for forcible entry.

The CA discussed these issues as follows:

The complaint subject of this case was captioned as "ejectment". From a reading of the allegations of the subject Complaint, we find that the action is one for *forcible entry*. Petitioner alleged that he is the owner of the property registered under TCT No. T-24503; that the possession thereof by respondent on 1 September 2001 was pursuant to an alleged Memorandum of Agreement between her and a certain Don Mario Enciso, without the authority and consent of the petitioner; and that he has served written demands, dated 27 September 2001 and 24 October 2001, but that respondent refused to vacate the property. According to petitioner, the Complaint, which was filed on 13 June 2002, was filed within one year from the occupation of the property.

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Petitioner likewise contends that prior to the disputed possession of respondent, he and his family used the property as their "rest house/vacation place" after their hard day's work in Metro Manila. He avers that his possession is anchored on TCT No. T-24503. Notably, respondent acknowledged the existence of the muniment of title presented by petitioner. In relation thereto, noteworthy is the fact that respondent has shown no document evidencing proof of ownership over the subject matter except for the unnotarized documents of conveyances executed between her and Don Mario Enciso Benitez and Don Mario Enciso Benitez and petitioner. The fact that the deeds were not notarized nor acknowledged before a notary public raises doubt as to the probative value of said documents. On this matter, evidentiary value weighs in favor of petitioner.

As regards petitioner's supplication for restoration of possession which is based on his and his family's use of the subject property prior to the inception of the controversy, the rule is that whatever may be the character of his prior possession, if he has in his favor priority in time, he has the security that entitles him to remain on the property until he is lawfully ejected by a person having a better right. From a reading of the records, it is evident that the petitioner had addressed the element of prior physical possession.

Having established prior possession, the corollary conclusion would be that the entry of respondent – and her subsequent possession of the contested property – was illegal at the inception. Respondent's entry into the land was effected without the knowledge of petitioner, consequently, it is categorized as possession by stealth.²⁵

The allegations in paragraphs 5 and 6 of the Complaint adequately aver prior physical possession by respondents and their dispossession thereof by stealth, because the intrusion by petitioner was without their knowledge and consent. The Court thus agrees with the findings of the CA that contrary to those of the RTC that the case was an action for ejectment in the nature of

²⁵Rollo, pp. 42-44.

accion reivindicatoria, the case was actually for forcible entry and sufficient in form.

Likewise, the Court agrees with the CA's findings that the Complaint was timely filed. It is settled that where forcible entry occurred clandestinely, the one-year prescriptive period should be counted from the time the person who was deprived of possession demanded that the deforciant desist from dispossession when the former learned about it.²⁶ The owners or possessors of the land cannot be expected to enforce their right to its possession against the illegal occupant and sue the latter before learning of the clandestine intrusion. And to deprive lawful possessors of the benefit of the summary action under Rule 70 of the Revised Rules, simply because the stealthy intruder managed to conceal the trespass for more than a year, would be to reward clandestine usurpations even if they are unlawful.²⁷

The title to the property of respondents and their Tax Declaration proved possession de jure, but not their actual possession of the property prior to petitioner's entry.

The burden of sufficiently alleging prior physical possession carries with it the concomitant burden of establishing one's case by a preponderance of evidence. To be able to do so, respondents herein must rely on the strength of their own evidence, not on the weakness of that of petitioner. It is not enough that the allegations of a complaint make out a case for forcible entry. The plaintiff must prove prior physical possession. It is the basis of the security accorded by law to a prior occupant of a property until a person with a better right acquires possession thereof.²⁸

The Court has scrutinized the parties' submissions, but found no sufficient evidence to prove respondents' allegation of prior physical possession.

To prove their claim of having a better right to possession, respondents submitted their title thereto and the latest Tax Declaration prior to the initiation of the ejectment suit. As the CA correctly observed, petitioner failed to controvert these documents with competent evidence. It erred, however, in considering those documents sufficient to prove respondents' prior physical possession.

Ownership certainly carries the right of possession, but the possession contemplated is not exactly the same as that which is in issue in a forcible entry case. Possession in a forcible entry suit refers only to possession *de facto*, or actual or material possession, and not one flowing out of

²⁶See *Domalsin v. Sps. Valenciano*, 515 Phil 745, 766 (2006).

²⁷*Prieto v. Reyes*, 121 Phil 1218, 1220 (1965).

²⁸*Abad v. Farrales*, supra.

ownership. These are different legal concepts under which the law provides different remedies for recovery of possession. Thus, in a forcible entry case, a party who can prove prior possession can recover the possession even against the owner. Whatever may be the character of the possession, the present occupant of the property has the security to remain on that property if the occupant has the advantage of precedence in time and until a person with a better right lawfully causes eviction.²⁹

Similarly, tax declarations and realty tax payments are not conclusive proofs of possession. They are merely good indicia of possession in the concept of owner based on the presumption that no one in one's right mind would be paying taxes for a property that is not in one's actual or constructive possession.³⁰

Guided by the foregoing, the Court finds that the proofs submitted by respondents only established possession flowing from ownership. Although respondents have claimed from the inception of the controversy up to now that they are using the property as their vacation house, that claim is not substantiated by any corroborative evidence. On the other hand, petitioner's claim that she started occupying the property in March 2001, and not in September of that year as Antonio alleged in his Complaint, was corroborated by the Affidavit³¹ of petitioner's caretaker. Respondents did not present any evidence to controvert that affidavit.

Therefore, respondents failed to discharge their burden of proving the element of prior physical possession. Their uncorroborated claim of that fact, even if made under oath, is self-serving. It does not amount to preponderant evidence, which simply means that which is of greater weight or is more convincing than evidence that is offered in opposition.³²

As noted at the outset, it bears stressing that the Court is not a trier of facts. However, the conflicting findings of fact of the MTCC and the RTC, on the one hand, and the CA on the other, compelled us to revisit the records of this case for the proper dispensation of justice.³³ Moreover, it must be stressed that the Court's pronouncements in this case are without prejudice to the parties' right to pursue the appropriate remedy.

WHEREFORE, the Petition for Review on Certiorari is hereby **GRANTED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 76446 are **REVERSED**, and the Decision of the MTCC dismissing the Complaint against petitioner is **REINSTATED**.

²⁹ *Nenita Quality Foods Corp. v. Galabo*, supra; *Pajuyo v. Guevarra*, G.R. No. 146364, 3 June 2004, 430 SCRA 492.

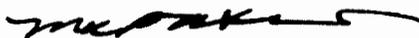
³⁰ *De Grano v. Lacaba*, 607 Phil 122 (2009).

³¹ *Rollo*, p. 97.

³² *Lee v. Dela Paz*, G.R. No. 183606, 27 October 2009, 604 SCRA 522.

³³ *Sps. Dela Cruz v. Sps. Capco*, G.R. No. 176055, 17 March 2014.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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