



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

**DOMINGA PALACAT,**

*Petitioner,*

- versus -

**HEIRS OF FLORENTINO  
HONTANOSAS,** represented by  
**MALCO HONTANOSAS, ELIZA  
HONTANOSAS, CHOCHÉ H.  
CANDUTAN, NERY  
HONTANOSAS,** and **HERMIE  
HONTANOSAS,**

*Respondents.*

**G.R. No. 237178**

Present:

PERALTA, *CJ.*, Chairperson  
CAGUIOA,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, *JJ.*

Promulgated:

DEC 02 2020

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**DECISION**

**ZALAMEDA, J.:**

The present case is a salutary reminder of the hornbook principle in jurisprudence that the nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.

### The Case

This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision<sup>2</sup> dated 31 July 2017 (assailed Decision) and Resolution<sup>3</sup> dated 11 December 2017 of the Court of Appeals (CA) in CA-G.R. CEB-SP. No. 09963 entitled, “Heirs of Florentino Hontanosas, represented by Malco Hontanosas, Eliza Hontanosas, Choche H. Candutan, Nery Hontanosas, and Hermie Hontanosas, Petitioners, v. Dominga Palacat, Respondent.” The CA set aside the Orders dated 21 December 2015<sup>4</sup> and 17 February 2016<sup>5</sup> issued by Branch 49, Regional Trial Court (RTC), Tagbilaran City, in the exercise of its appellate jurisdiction over a case for Quieting of Title, Recovery of Possession, Specific Performance and Damages, docketed as RTC Civil Case No. 8555.

### Antecedents

In February 2012, the heirs of Florentino Hontanosas (respondents), filed a Complaint<sup>6</sup> for Quieting of Title, Recovery of Possession, Specific Performance, and Damages against petitioner Dominga Palacat (petitioner) before the Municipal Circuit Trial Court (MCTC) of Dausi-Panglao, Bohol. In June 2013, respondents amended their complaint.<sup>7</sup>

Respondents claim to be the owners of Lot No. 6662-B, an unregistered land containing an area of 2016 square meters, which they obtained through a Compromise Agreement<sup>8</sup> in a civil case for partition and damages. It shared the same boundary line with Lot No. 6450, registered under Original Certificate of Title No. 63752<sup>9</sup> in the name of the late Placido Palacat (Placido), and currently occupied by his widow, herein petitioner.

Prior to filing the complaint and amended complaint, respondents applied for a free patent over Lot 6662-B with the Department of Environment and Natural Resources (DENR), but Placido opposed the application on the ground that respondents’ lot had encroached on his lot,

<sup>1</sup> *Rollo*, pp. 3-21.

<sup>2</sup> *Id.* at 23-35; penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justice Pamela Ann Abella Maxino and Associate Justice Gabriel T. Robeniol of the Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 37-39; penned by Associate Justice Germano Francisco D. Legaspi, and concurred in by Associate Justice Pamela Ann Abella Maxino and Associate Justice Gabriel T. Robeniol.

<sup>4</sup> *Id.* at 77-78, Annex “G.”

<sup>5</sup> *Id.* at 79-81, Annex “H.”; penned by Acting Presiding Judge Suceso A. Arcamo.

<sup>6</sup> *Id.* at 42-51, Annex “D.”

<sup>7</sup> *Id.* at 119-126; *see* Amended Complaint.

<sup>8</sup> *Id.* at 191-193.

<sup>9</sup> *Id.* at 53- 55.

Lot No. 6450.<sup>10</sup> The DENR surveyed the adjoining lots and found that it was that the fence of Lot No. 6450 that was encroaching on one of Lot No. 6662-B's corner boundaries by about 6.7 meters.

Respondents informed petitioner about the encroachment, and requested for a joint survey of the adjoining lots. Dominga refused.<sup>11</sup> The dispute went to the *barangay* for conciliation, but the parties failed to reach a compromise agreement. Hence, respondents filed the Complaint.<sup>12</sup>

In response, petitioner filed a Motion to Dismiss<sup>13</sup> on the following grounds: 1) the court's lack of jurisdiction over the subject matter of the amended complaint for failure to allege the assessed value of the disputed property; 2) failure to exhaust administrative remedies; and 3) quieting of title was an improper remedy.<sup>14</sup>

### Ruling of the MCTC

On 28 August 2014, the MCTC issued an Order,<sup>15</sup> dismissing the amended complaint for failure of respondents to exhaust administrative remedies. The dispositive portion thereof reads:

WHEREFORE, this case is hereby DISMISSED for failure of the plaintiffs to exhaust administrative remedies thereby divesting this court of jurisdiction in this case.

SO ORDERED.<sup>16</sup>

Citing the ruling of the Court in *Bagunu v. Aggabao, et al. (Bagunu)*,<sup>17</sup> the MCTC declared that the DENR was the proper forum to ventilate the issues in this case considering that the property involved was public land. Moreover, the DENR had already acquired jurisdiction over the dispute in view of the Placido's opposition to the application for issuance of patent by the respondents.<sup>18</sup>

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<sup>10</sup> *Id.* at 24.

<sup>11</sup> *Id.* at 24.

<sup>12</sup> *Id.* at 25.

<sup>13</sup> *Id.* at 206-210.


<sup>14</sup> *Id.* at 25.

<sup>15</sup> *Id.* at 63-70, Annex "E;" penned by Presiding Judge Raul P. Barbarona.

<sup>16</sup> *Id.* at 70.

<sup>17</sup> G.R. No. 186487, 15 August 2011, 671 Phil. 183

<sup>18</sup> *Rollo*, pp. 216-217.



Respondents filed a Motion for Reconsideration<sup>19</sup> but the MCTC's Order<sup>20</sup> dated 13 May 2015 denied the same. Hence, they appealed to the RTC.

### **Ruling of the RTC**

Initially, the RTC affirmed the dismissal of respondents' amended complaint for the MCTC's lack of jurisdiction. Notwithstanding, the RTC proceeded to take cognizance of the amended complaint considering the dismissal was not on the merits. Unsatisfied with the ruling, respondents moved for partial reconsideration, arguing the RTC's assumption of jurisdiction as erroneous.

On 17 February 2016, the RTC issued an Order<sup>21</sup> reinstating the MCTC judgment. The decretal portion of said Order reads:

WHEREFORE, in the light of the foregoing, the order of this court dated December 21, 2015 is hereby RECONSIDERED and the order of the court a quo dismissing the instant complaint is hereby AFFIRMED.

SO ORDERED.<sup>22</sup>

The RTC admitted that as correctly insisted by respondents, it would be an error to assume jurisdiction over the amended complaint inasmuch as the assessed value of the disputed property, as stated in Tax Declaration of Real Property No. 2008-19-0012-00277,<sup>23</sup> was only Php 8,720.00. Furthermore, the RTC held the doctrine of primary jurisdiction was applicable since the issue hinged on the determination of the correct metes and bounds of the adjoining lots.<sup>24</sup>

Respondents thus filed a Petition for Review under Rule 42<sup>25</sup> with the CA.

### **Ruling of the CA**

On 31 July 2017, the CA promulgated the assailed decision granting respondents' petition, thus:

<sup>19</sup> *Id.* at 219-229.

<sup>20</sup> *Id.* at 71-76, Annex "F."

<sup>21</sup> *Id.* at 79-81, Annex "H."

<sup>22</sup> *Id.* at 81.

<sup>23</sup> *Id.* at 52 and 188.

<sup>24</sup> *Id.* at 80-81.

<sup>25</sup> *Id.* at 82-109, Annex "I."



**WHEREFORE**, the petition is **GRANTED**. The Orders dated December 21, 2015 and February 17, 2016 of Branch 49 of the Regional Trial Court of Tagbilaran, Bohol in Civil Case No. 8555 are SET ASIDE.

The case is **REMANDED** to the 14th Municipal Circuit Trial Court of Dausi, Panglao, Bohol for further proceedings. The MCTC is **DIRECTED** to decide the case with reasonable dispatch.

SO ORDERED.<sup>26</sup>

The CA held that based on the allegations in the amended complaint, the action was not one for quieting of title, but only for recovery of possession. Corollarily, jurisprudence is clear that quieting of title is not the proper remedy for settling boundary disputes.<sup>27</sup>

Specifically, the CA held the complaint was one for *accion publiciana*. While respondents failed to allege in the amended complaint the assessed value of the disputed property, the first level court had jurisdiction over the case. This, considering that the attached tax declaration in the amended complaint showed that respondents' lot had an assessed value of Php 8,720.00.<sup>28</sup> Consequently, the RTC should not have affirmed the dismissal of the complaint, but instead should have remanded the case to the MCTC for further proceedings.<sup>29</sup>

Petitioner moved for reconsideration, but the same was denied. Hence, she filed the present petition, submitting the following assignment of errors for the Court's consideration:

A

THE HONORABLE APPELLATE COURT ERRED IN HOLDING THAT THE DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT APPLICABLE IN THE PRESENT CASE

B

WHETHER OR NOT THE HONORABLE APPELLATE COURT ERRED IN FINDING RESPONDENTS' PETITION FOR REVIEW MERITORIOUS

<sup>26</sup> *Id.* at 34.

<sup>27</sup> *Id.* at 30.

<sup>28</sup> *Id.* at 31-32.

<sup>29</sup> *Id.* at 33-34.



## C

WHETHER OR NOT THE HONORABLE APPELLATE COURT COMMITTED A REVERSIBLE ERROR IN NOT FINDING THAT THE PRESENT CASE INVOLVES A QUESTION OF OWNERSHIP AND IN REVERSING THE DECISION OF THE REGIONAL TRIAL COURT AND REMANDING THE CASE TO THE MCTC.<sup>30</sup>

In addition, the Court must decide whether or not the MCTC has jurisdiction over the subject matter of respondents' amended complaint.

### Ruling of the Court

The petition has no merit.

Well-settled is the rule that jurisdiction over the subject matter of a case is conferred by law. The nature of an action, as well as which court or body has jurisdiction over it, is determined by the allegations contained in the complaint, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the determining factors. Once vested, jurisdiction remains even if it is established at trial that the plaintiff is not entitled to recover from all or some of the claims raised in the complaint.<sup>31</sup>

As correctly found by the CA, while denominated as one for Quieting of Title, Recovery of Possession, Specific Performance, and Damages, a perusal of the amended complaint shows that it is essentially a suit for recovery of possession. Specifically, it is in the nature of an *accion publiciana*, which is a plenary action for recovery of possession in an ordinary civil proceeding, in order to determine who has the better and legal right to possess, independently of title.<sup>32</sup> Paragraph 16 of the amended complaint states:

16. Plaintiff do not intend to assail the Original Certificate of Title No. 63752 but instead alleges that Placido Palacat have occupied and fenced off a land area which is more that [sic] what is validly covered and

<sup>30</sup> *Id.* at 7.

<sup>31</sup> *See De Vera, et al. v. Spouses Santiago, et al.*, G.R. No. 179457, 22 June 2015, 761 Phil. 90 (2015) [Per J. Peralta].

<sup>32</sup> *See Catindig v. Vda. de Meneses*, G.R. Nos. 165851 and 168875, 02 February 2011, 656 Phil. 361 (2011) [Per J. Peralta].

protected by Original Certificate of Title No. 63752 thereby encroaching a portion of Lot No. 6662-B;<sup>33</sup> (Underscore and italics removed)

Apart from this particular allegation, respondents prayed only for the joint survey of the adjoining lots, and the peaceful turn over of the possession of the encroached portion of Lot No. 6222-B. They did not ask for a determination of ownership of the subject properties. Hence, the MCTC has jurisdiction over respondents' amended complaint.

Petitioner insists that the MCTC was correct in dismissing respondents' amended complaint for failure to exhaust administrative remedies. Allegedly, the disputed property is a public land, and as such, the DENR had jurisdiction over the issues, not the regular courts. However, the doctrine of exhaustion of administrative remedies is inapplicable since ownership was never raised as an issue.<sup>34</sup> As such, jurisdiction remains with the regular courts.

In *Modesto v. Urbina*,<sup>35</sup> which involved the recovery of possession of a property covered by a Miscellaneous Sales Application with the Land Management Bureau, the Court had the occasion to stress once again that the authority of the courts to resolve and settle questions relating to the possession of property continues, even when the land in question is public land, thus:

As we explained in *Solis v. Intermediate Appellate Court*<sup>36</sup>:

We hold that the power and authority given to the Director of Lands to alienate and dispose of public lands does not divest the regular courts of their jurisdiction over possessory actions instituted by occupants or applicants against others to protect their respective possessions and occupations. While the jurisdiction of the Bureau of Lands [now the Land Management Bureau] is confined to the determination of the respective rights of rival claimants to public lands or to cases which involve disposition of public lands, the power to determine who has the actual, physical possession or occupation or the better right of possession over public lands remains with the courts.

The rationale is evident. The Bureau of Lands does not have the wherewithal to police public lands. Neither does it have the means to prevent disorders or breaches of peace among the

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<sup>33</sup> *Id.* at 122.

<sup>34</sup> *Id.* at 32-33.

<sup>35</sup> G.R. No. 189859, 18 October 2010, 647 Phil. 706 (2010) [Per J. Brion].

<sup>36</sup> G.R. No. 72486, 19 June 1991, 275 Phil. 295 (1991) [Per C.J. Fernan].



occupants. Its power is clearly limited to disposition and alienation and while it may decide disputes over possession, this is but in aid of making the proper awards. The ultimate power to resolve conflicts of possession is recognized to be within the legal competence of the civil courts and its purpose is to extend protection to the actual possessors and occupants with a view to quell social unrest.

Consequently, while we leave it to the LMB to determine the issue of who among the parties should be awarded the title to the subject property, there is no question that we have sufficient authority to resolve which of the parties is entitled to rightful possession.

Accordingly, the case at bar should be distinguished from the case of *Bagunu*, which was relied upon by the MCTC. While both cases involve a protest against an application for patent over public land, the subsequent complaint-in-intervention filed by the respondents therein alleged possession based on ownership, and specifically prayed for the Court to declare them as owners of the encroached property, which made a case for *accion reivindicatoria*. In deciding *Bagunu*, the Court held that although a reivindicatory action ordinarily falls within the exclusive jurisdiction of the RTC, the court's jurisdiction to resolve controversies involving ownership of real property extends only to private lands. It likewise applied the doctrine of primary jurisdiction in this wise:

The resolution of conflicting claims of ownership over real property is within the regular courts' area of competence and, concededly, this issue is judicial in character. However, regular courts would have no power to conclusively resolve this issue of ownership given the *public character* of the land, since under C.A. No. 141, in relation to Executive Order No. 192, the disposition and management of public lands fall within the exclusive jurisdiction of the Director of Lands, subject to review by the DENR Secretary.

While the powers given to the DENR, through the Bureau of Lands, to alienate and dispose of public land do not divest regular courts of jurisdiction over *possessory* actions instituted by occupants or applicants (to protect their respective possessions and occupations) the respondents' complaint-in-intervention does not simply raise the issue of possession – whether *de jure* or *de facto* – but likewise raised the issue of ownership as basis to recover possession. Particularly, the respondents prayed for declaration of ownership of Lot 322. Ineluctably, the RTC would have to defer its ruling on the respondents' *reivindicatory* action pending final determination by the DENR, through the Lands





Management Bureau, of the respondents' entitlement to a free patent, following the doctrine of primary jurisdiction.<sup>37</sup>

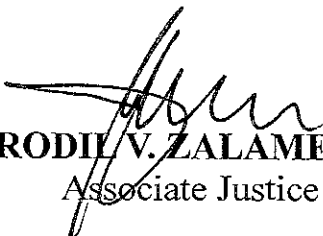
Considering there was no allegation of ownership in the present case, and as such, jurisdiction resides with the regular courts, the CA correctly remanded the case to the MCTC for trial on the merits. Pursuant to Republic Act (RA) No. 7691, first level courts have exclusive original jurisdiction over *accion publiciana* and *accion reivindicatoria* where the assessed value of the real property does not exceed Php 20,000.00 if outside Metro Manila, or Php 50,000.00 if within Metro Manila.<sup>38</sup>

Finally, petitioner's belated argument in her Reply to Respondents' Comment/Opposition<sup>39</sup> that the case is dismissible for being barred by prescription deserves scant consideration.

Although it is established that Placido obtained his certificate of title in 1990, the time when Placido fenced Lot No. 6450, and when respondents learned of the encroachment, along with other factual matters, like supervening events, would necessitate a full-blown trial on the merits to ascertain whether prescription had indeed set in. It is settled that an allegation of prescription can effectively be used to seek the dismissal of an action only when the complaint on its face shows that the action has indeed prescribed. The issue of prescription is one involving evidentiary matters requiring a full blown trial on the merits and cannot be determined in a mere motion to dismiss.<sup>40</sup>

**WHEREFORE**, premises considered, the instant Petition for Review on *Certiorari* is **DENIED**. The Decision promulgated on 31 July 2017 and Resolution promulgated on 11 December 2017 of the Court of Appeals in CA-G.R. CEB-SP. No. 09963 are **AFFIRMED**.

**SO ORDERED.**

  
**RODIL V. ZALAMEDA**  
Associate Justice

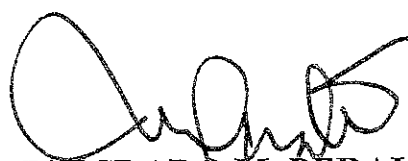
<sup>37</sup> *Supra* note at 17.

<sup>38</sup> *See Vda. de Barrera v. Heirs of Legaspi*, G.R. No. 174346, 12 September 2008, 586 Phil. 750 (2008) [Per J. Carpio-Morales].

<sup>39</sup> *Rollo*, pp. 141-144.

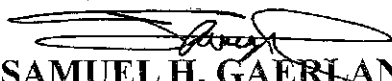
<sup>40</sup> *See Banez, Jr. v. Hon. Concepcion*, G.R. No. 159508, 29 August 2012, 693 Phil. 399 (2012) [Per J. Bersamin]; citing *Pineda v. Heirs Guevara*, G.R. No. 143188, 14 February 2007, 544 Phil. 554 (2007) [Per J. Tinga].

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson

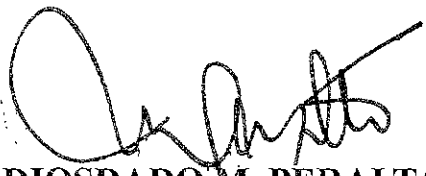
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**ROSMARI D. CARANDANG**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
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.

  
**DIOSDADO M. PERALTA**  
Chief Justice

