

Republic of the Philippines
Supreme Court
Baguio City

EN BANC

SPOUSES NOEL M. AGULLO
and LENY AGULLO, and
JOSEPHINE BERMEJO,
Petitioners,

G.R. No. 269921

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH,* JJ.

- versus -

LEA VICTA - ESPINOSA,
represented by AURORA A.
VICTA,
Respondent.

Promulgated:

April 22, 2025

X ----- X

DECISION

ROSARIO, J.:

A complaint for *accion publiciana* may be filed not only when the dispossession of property has lasted for more than one year but also when it has lasted for one year or less in cases other than those mentioned in Rule 70

* On leave.

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of the Rules of Court, i.e., when there is no allegation of deprivation of possession by force, intimidation, threat, strategy, or stealth.

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Court of Appeals (CA) Decision² and Resolution³ which set aside the Regional Trial Court (RTC) Orders⁴ dismissing respondent Lea Victa-Espinosa's (Espinosa) Complaint⁵ for Recovery of Possession and denying her subsequent Motion for Reconsideration (MR), respectively.

Stripped of non-essentials, the records reveal that after purchasing a parcel of land, Espinosa had it surveyed and found that petitioner spouses Noel and Leny Agullo (spouses Agullo) had encroached on a portion thereof. The latter refused to heed her demand to vacate, thus, prompting her to file a Complaint for Recovery of Possession before the RTC, praying that they be ordered to vacate and to pay damages. Sans issuing summons, the RTC summarily dismissed the Complaint, finding it premature since an action for forcible entry may still be filed within one year from the discovery of the dispossession. The pertinent portion of its first Order reads:

....

... [F]or a forcible entry to prosper, the plaintiff must allege and prove, among others, that the action was filed within [one] year from the time the owner learned of their deprivation of the physical possession of the property. As such, *thereafter, a recovery of possession has to be filed before the proper forum.*

Under the foregoing premises, *the filing of the present action for Recovery of Possession is still premature.* As such, the instant case has to be dismissed, as it is hereby ordered dismissed.

SO ORDERED.⁶ (Emphasis supplied)

Respondent filed an MR⁷ arguing that her Complaint was neither for forcible entry nor for unlawful detainer. Neither was it for *accion publiciana* because it was not filed merely to determine who has the better right of possession, but for *accion reivindicatoria* since she sought not only to recover ownership but also possession as an attribute thereof. The RTC denied her

¹ *Rollo*, pp. 12-29.

² *Id.* at 31-38. The March 17, 2023 Decision in CA-G.R. SP No. 163854 was penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Victoria Isabel A. Paredes and Michael P. Ong of the Special Thirteenth Division, Court of Appeals, Manila.

³ *Id.* at 40-41. The September 25, 2023 Resolution in CA-G.R. SP No. 163854 was penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Victoria Isabel A. Paredes and Michael P. Ong of the Former Special Thirteenth Division, Court of Appeals, Manila.

⁴ *Id.* at 61 and 57. The August 5, 2019 and October 4, 2019 Orders in Civil Case No. 8429 were penned by Presiding Judge Arniel A. Dating of Branch 41, Regional Trial Court, Daet, Camarines Norte.

⁵ *Id.* at 58-60.

⁶ *Id.* at 61.

⁷ *Id.* at 62-65

MR in its second Order⁸, prompting her to file a Petition for *Certiorari* where she maintained that her Complaint was for *accion reivindicatoria*.

In its assailed Decision⁹, the CA granted her Petition, set aside the RTC Orders, and directed the RTC to conduct proceedings and decide on the merits. It found that her Complaint was for *accion reivindicatoria* because she sought to recover full possession of the property as an element of ownership. It also ruled that a boundary dispute or encroachment cannot be settled summarily in an *accion interdictal* or *publiciana* but only in an *accion reivindicatoria*. The CA thereafter denied spouses Agullo’s MR in its assailed Resolution.¹⁰

Hence, this Petition praying that the CA Decision and Resolution be set aside and the RTC Orders be reinstated. Spouses Agullo argue that the Complaint is for *accion publiciana* which can only be filed when dispossession has lasted for more than one year. Since it had not lasted for more than a year, the action for forcible entry had not yet lapsed. Consequently, the filing of an action to recover possession is premature. Even assuming that it is for *accion reivindicatoria*, spouses Agullo posit that it can only be filed when dispossession has lasted for more than a year, citing *Martinez v. Heirs of Lim*.¹¹

We deny the Petition.

Procedurally, the RTC erred in dismissing the Complaint *motu proprio* before issuing summons. Rule 9, Section 1 of the Rules of Court provides only four instances where the court may *motu proprio* dismiss the claim: (1) lack of jurisdiction over the subject matter; (2) *litis pendentia*; (3) *res judicata*; and (4) prescription.¹² Dismissal on the ground of prematurity is not one of them.

On the substantive issue, We rule that the CA erred in considering the Complaint as one for *accion reivindicatoria*. The case of *Macutay v. Samoy*¹³ is instructive. In said case, a registered owner of land filed a complaint captioned “*Accion Reivindicatoria* with Damages,” praying that the occupants of portions of his land vacate the same. We quote the pertinent portions of said complaint as well as the present Complaint for comparison:

The complaint in <i>Macutay</i>	The present Complaint
[Plaintiff] and his children are in actual possession of a parcel of land... more particularly described as follows...: 	Plaintiff is the owner of a parcel of land more particularly described as follows: “A parcel of land... assessed at [PHP] 68,060.00”

⁸ *Id.* at 57.
⁹ *Id.* at 31–38.
¹⁰ *Id.* at 40–41.
¹¹ 862 Phil. 744, 755 (2019) [Per C.J. Bersamin, First Division].
¹² *Moreno v. Kahn*, 837 Phil. 337, 345 (2018) [Per J. Perlas-Bernabe, Second Division].
¹³ 891 Phil. 131 (2020) [Per J. Caguioa, First Division].

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[Defendants] are all in actual possession of [n]orthern portions of the afore-described parcel [of] land ... without any legal right to possess the same... Repeated demands were made ... for them to peacefully surrender actual possession of the land but [defendants] refuse[d]...; WHEREFORE, [plaintiff] prays for judgment ordering [defendants] to fully surrender their actual and physical possession of the portions of the land to [plaintiff] AND [o]rdering [defendants] to pay ... costs of the suit. [Plaintiff] prays for such other reliefs as may be just and equitable...¹⁴	 [I]t was discovered that herein defendants have encroached into the property... Defendants have been illegally occupying... long before the plaintiff acquired the same. The defendants are mere informal settlers... Demands have been made... to vacate... but without any valid and justifiable reason, they refused... WHEREFORE, premises considered, judgment be rendered... ordering the defendants...: a) To vacate...; b) To pay attorney's fees...; c) To pay... moral damages; d) To pay... exemplary damages; Such other reliefs are also prayed for.
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In *Macutay*, We held that notwithstanding the caption of the complaint, it did *not* include a prayer for recovery of ownership or annulment of title. Further, We found that the allegations therein indicate that it was essentially an action for recovery of possession, or an *accion publiciana*.

Similarly, the present Complaint does not include a prayer for recovery of ownership or annulment of title. Although respondent alleged in her MR before the RTC and Petition before the CA that she sought to recover ownership and possession as an attribute thereof, nowhere in her Complaint does she seek recovery of ownership. What determines the nature of the action, as well as the court which has jurisdiction over the case, are the allegations in the Complaint,¹⁵ not the allegations in a subsequent pleading or motion. Further, contrary to the CA's ruling, there was no boundary dispute here and not all cases of encroachment bring the case within the ambit of *accion reivindicatoria*, as in this case where recovery of ownership is not sought. Respondent did not even allege that petitioners disputed her title. Hence, there is no reason for the ownership of the property to be conclusively determined through an *accion reivindicatoria*.

Jurisprudence has described *accion reivindicatoria* not only as an action to recover ownership,¹⁶ but also as an action to recover possession as

¹⁴ *Id.* at 138–139.

¹⁵ *Delos Reyes v. Spouses Odonos*, 661 Phil. 676, 682 (2011) [Per J. Nachura, Second Division].

¹⁶ *Suarez v. Spouses Emboy*, 729 Phil. 315, 330 (2014) [Per J. Reyes, First Division].

an element of ownership.¹⁷ This latter description has seemingly caused confusion among courts and litigants alike, with some erroneously classifying a complaint as one for *accion reivindicatoria* where the plaintiff alleges ownership and seeks to recover possession as an element of ownership, even without seeking recovery of ownership or alleging a dispute in his title.

The judgment in an *accion reivindicatoria* determines the ownership of the property and awards possession thereof to the lawful owner.¹⁸ It does not determine the issue of possession alone. Without any allegation in the complaint that defendant disputes plaintiff's ownership, as in this case, there is no ownership for the court to conclusively determine. Mere averment or allegation of plaintiff's ownership, on its own, is not tantamount to seeking recovery of ownership or alleging dispute as to plaintiff's ownership.

Likewise, the description of *accion publiciana* as an ordinary civil proceeding to determine the better right of possession *independently of title* or *without claim of title*¹⁹ has led some to erroneously conclude that a complaint where plaintiff alleges title cannot be one for *accion publiciana*.

Black's Law Dictionary defines *claim of title* as being synonymous with *claim of ownership*,²⁰ which, in turn, it defines as "possession of a piece of property with the intention of claiming it in hostility to the true owner."²¹ Thus, "*independently of title*" simply means that the better right of possession may or may not proceed from title.²² On the other hand, "*without claim of title*" means that there is no claim of title hostile to or inconsistent with that of plaintiff, or even if there be such hostile or inconsistent claim, the same is not alleged in the complaint.

To illustrate, in the case of *Spouses Cruz v. Spouses Torres*,²³ therein plaintiff was the registered owner of a parcel of land. He allowed his family to construct their dwelling thereon but later pleaded that they vacate as he needed the lot for his own use. His sisters refused to heed his demands to vacate, and even claimed that their deceased father is the true owner of the lot. Thus, plaintiff filed a complaint termed as one for "reconveyance of real property." However, it was only in the answer that their deceased father's supposed ownership was asserted. This Court held that the action is plainly one for recovery of possession or *accion publiciana*.²⁴

In short, even if the plaintiff was aware of defendants' claim of title which was inconsistent with his title, his failure to allege the same in the

¹⁷ *Amoroso v. Alegre*, 552 Phil. 22, 35 (2007) [Per J. Tinga, Second Division].

¹⁸ *Heirs of Yusingco v. Busilak*, 824 Phil. 454, 461 (2018) [Per J. Peralta, Second Division].

¹⁹ *Id.*

²⁰ BLACK'S LAW DICTIONARY 313 (12th ed., 2024).

²¹ *Id.*

²² *Heirs of Cullado v. Gutierrez*, 858 Phil. 580, 601 (2019) [Per J. Caguioa, *En Banc*].

²³ 374 Phil. 529 (1999) [Per J. Pardo, First Division].

²⁴ *Id.* at 534.

complaint brought it out of the ambit of an *accion reivindicatoria*, despite alleging his ownership and despite defendants' claim of title later surfacing in the answer. Be that as it may, the Court in an *accion publiciana* is not precluded from determining the issue on ownership that arose out of the answer, albeit only provisionally and for the sole purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession.²⁵

As to when a complaint for *accion publiciana* may be filed, both the courts and parties in this case agree that it may be brought before the proper RTC only when dispossession has lasted for more than a year. **This is inaccurate.**

In *Heirs of Cullado v. Gutierrez*,²⁶ the Court *En Banc* held that there are cases where an *accion publiciana* must be brought before the proper inferior court and not the RTC, and that there are cases where it can be filed even if the dispossession has not yet lasted for more than a year, to wit:

1. *Accion interdical* or a summary ejectment proceeding, which may be either for forcible entry (*detentacion*) or unlawful detainer (*desahucio*), for the recovery of physical or material possession (possession *de facto*) where the dispossession has not lasted for more than one year, and should be brought in the proper inferior court;
2. *Accion publiciana* or the plenary action to recover the better right of possession (possession *de jure*), which should be brought in the **proper inferior court or Regional Trial Court (depending upon the value of the property)** when the dispossession has lasted for more than one year **(or for less than a year in cases other than those mentioned in Rule 70 of the Rules of Court);** and
3. *Accion reivindicatoria* or *accion de reivindicacion* or reivindicatory action, which is an action for recovery of ownership which must be brought in the proper inferior court or Regional Trial Court (depending upon the value of the property).²⁷ (Emphasis supplied, citations omitted)

The Court cited the case of *Gumiran v. Gumiran*²⁸ to justify its ruling that the dispossessed person in an *accion publiciana* need not wait for the lapse of the one-year period in cases other than those mentioned in Rule 70 of the Rules of Court, i.e., when there is no allegation of deprivation of possession by force, intimidation, threat, strategy, or stealth:

Said section 80²⁹ does not cover all of the cases of dispossession of lands. **Whenever the owner is dispossessed by any other means than those mentioned in said section, he may maintain his action in a Court of First Instance, and it is not necessary for him to wait until the expiration**

²⁵ See *Supapo v. Spouses de Jesus*, 758 Phil. 444, 456 (2015) [Per J. Brion, Second Division].

²⁶ 858 Phil. 580, 601 (2019) [Per J. Caguioa, *En Banc*].

²⁷ *Id.* at 593–594.

²⁸ 21 Phil. 174, 179 (1912) [Per J. Johnson, *En Banc*].

²⁹ Sec. 80 of the Code of Procedure in Civil Actions is now Rule 70 of the Rules of Court.

of [12] months before commencing an action to be repossessed and to be declared to be the owner of said land... (Emphasis supplied)

We clarify, however, Our ruling in *Heirs of Cullado* in that a complaint for *accion publiciana* may also be filed if the dispossession has lasted for exactly **one year** in cases other than those mentioned in Rule 70. In sum, an *accion publiciana* may be brought when the dispossession has lasted **for more than one year** in any case, or when the dispossession has lasted for **one year or less** in cases other than those mentioned in Rule 70 of the Rules of Court.

Considering that the complaint was one for *accion publiciana* and that the alleged assessed value of the property was within the jurisdiction of the RTC pursuant to Republic Act No. 7691,³⁰ which was the prevailing law at the time of filing, the complaint was properly filed before the RTC.

Finally, We wish to clarify the ruling in *Martinez* which petitioner spouses cite to support their argument that an *accion reivindicatoria* is filed when the dispossession has lasted for more than one year. The Court in *Martinez* declared:

The last possessory action is *accion reivindicatoria* or *accion de reivindicacion*. It is an action whereby the plaintiff alleges ownership of the parcel of land and seeks recovery of its full possession. The issue involved in and determined through *accion reivindicatoria* is the recovery of ownership of real property. **This action can be filed when the dispossession lasted for more than one year.**³¹ (Emphasis supplied, citations omitted)

It appears that the Court in *Martinez* may have misquoted the following pronouncement in *Bongato v. Spouses Malvar*:³²

It is wise to be reminded that forcible entry is a quieting process, and that the restrictive time bar is prescribed to complement the summary nature of such process. Indeed, the one-year period within which to bring an action for forcible entry is generally counted from the date of actual entry to the land. However, when entry is made through stealth, then the one-year period is counted from the time the plaintiff learned about it. **After the lapse of the one-year period, the party dispossessed of a parcel of land may file either an *accion publiciana*, which is a plenary action to recover the right of possession; or an *accion reivindicatoria*, which is an action to recover ownership as well as possession.**³³ (Emphasis supplied, citations omitted)

³⁰ An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa, Blg. 129, Otherwise Known as the "Judiciary Reorganization Act of 1980."

³¹ 862 Phil. 744, 755 (2019) [Per C.J. Bersamin, First Division].

³² 436 Phil. 109 (2002) [Per J. Panganiban, Third Division].

³³ *Id.* at 122-123.

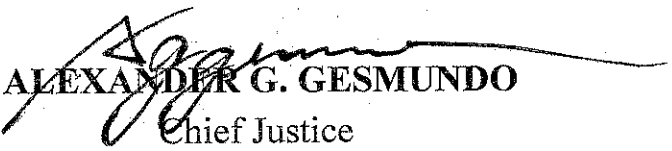
Clearly, what the Court meant to say was that while possession can no longer be wrested via a summary action for ejectment when dispossession has lasted for more than a year, the dispossessed party may still file a complaint for *accion publiciana* or *reivindicatoria*; hence, the phrase "*can be filed*" instead of "*shall be filed*." To say that one must wait for a year to lapse before seeking recovery of ownership is simply absurd and defies logic and reason.

ACCORDINGLY, the Petition is **DENIED**. The March 17, 2023 Decision and September 25, 2023 Resolution of the Court of Appeals in CA-G.R. SP No. 163854 are **AFFIRMED with MODIFICATION** in that the Complaint filed before the trial court is declared as one for *accion publiciana*. The trial court is directed to conduct further proceedings with reasonable dispatch and to decide the case on the merits in accordance with this Decision.

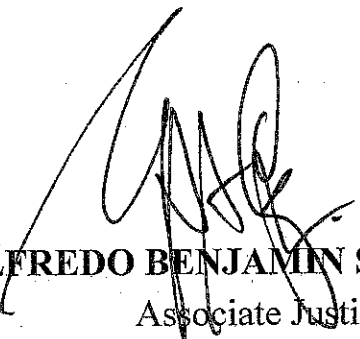
SO ORDERED.

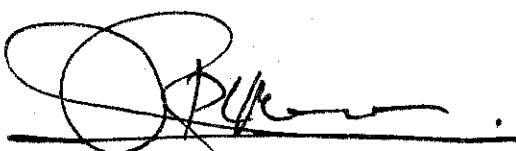

RICARDO R. ROSARIO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


MARVIC M.V.F. LEONEN
Associate Justice

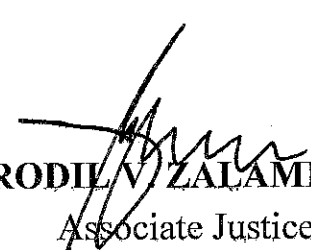

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

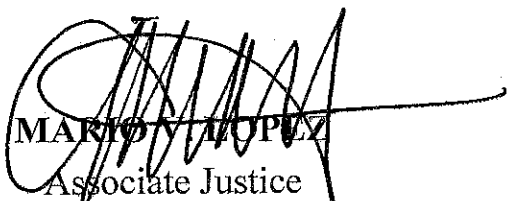

AMY C. LAZARO-JAVIER
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HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



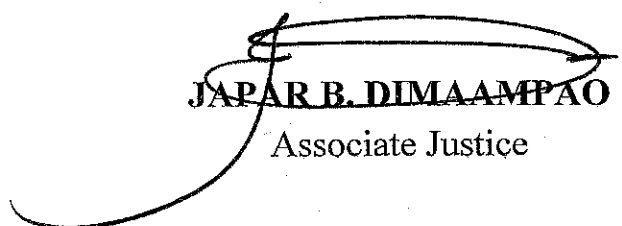
MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



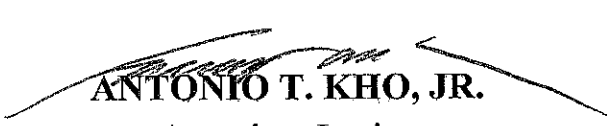
JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

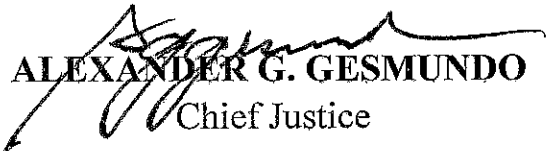


ANTONIO T. KHO, JR.
Associate Justice

ON LEAVE
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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 this Court.


ALEXANDER G. GESMUNDO
Chief Justice