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Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

REX DACLISON,
Petitioner,

- versus -

EDUARDO BAYTION,
Respondent.

G.R. No. 219811

Present:

CARPIO, *J., Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:
06 APR 2016

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DECISION

MENDOZA, *J.*:

Assailed in this petition for review[1] are the February 5, 2015 Decision[2] and the August 3, 2015 Resolution[3] of the Court of Appeals *(CA)* in CA-G.R. CV No. 99627, which affirmed *in toto* the April 27, 2012 Decision[4] rendered by the Regional Trial Court, Branch 224, Quezon City *(RTC)* in Civil Case No. Q-09-66145, a case for forcible entry.

The Antecedents

On January 27, 2009, respondent Eduardo Baytion *(Baytion)* filed a complaint[5] for Forcible Entry and Damages with Prayer for Issuance of Preliminary Mandatory Injunction with the Metropolitan Trial Court, Branch 43, Quezon City *(MeTC)* against petitioner Rex Daclison *(Daclison),* which was docketed as Civil Case No. 39225.

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[1] *Rollo,* pp. 11-32.
[2] Id. at 33-44; Penned by Associate Justice Elihu A. Ybañez with Associate Justices Isaias P. Dicdican and Victoria Isabel A. Paredes, concurring.
[3] Id. at 45-46.
[4] Id. at 88-92. Penned by Presiding Judge Tita Marilyn Payoyo-Villordon.
[5] Id. at 47-52.

In the complaint, Baytion alleged that he was a co-owner of a parcel of land consisting of 1,500 square meters, covered by Transfer Certificate Title *(TCT)* No. 221507. The said property was inherited by him and his siblings from their parents and, as agreed upon, was being administered by him. As administrator, he leased portions of the property to third persons.

Erected on the said property was a one-storey building which was divided into seven units or stalls. One of the stalls was leased to a certain Leonida Dela Cruz *(Leonida)* who used it for her business of selling rocks, pebbles and similar construction materials.

When the lease of Nida expired sometime in May 2008, Daclison and other persons acting under her took possession of the portion leased and occupied by Leonida without the prior knowledge and consent of Baytion. Since then, Daclison had been occupying the contested portion and using it for his business of selling marble and other finishing materials without paying anything to Baytion.

Upon learning of Daclison's unauthorized entry into the subject portion of the property, sometime in June 2008, Baytion demanded that he vacate it. Despite oral and written demands to vacate, Daclison refused to do so. This prompted Baytion to file the complaint for forcible entry and damages.

Daclison, in his answer, averred that sometime in 1978, Baytion leased the subject portion to Antonio dela Cruz *(Antonio)* where the latter started a business; that ten or fifteen years later, a stone walling, called a *riprap,* was erected at the creek lying beside Baytion's property, leaving a deep down-sloping area; that Antonio negotiated with a certain engineer so he could be in possession of the said down-slope; that Antonio had the down-slope filled up until it was leveled with the leased portion; that Antonio paid for the right to possess the same; that in 2000, Antonio's business was taken over by Leonida, who suffered a stroke in December 2007; that after her death, the business was taken over by Ernanie Dela Cruz *(Ernanie);* that in February 2008, he (Daclison) entered into a business venture with Ernanie in the same leased property and he took over the management of the business; that he received a letter from Baytion addressed to Ernanie requesting the latter to vacate the subject premises; that Baytion and Ernanie came to an agreement that the latter would continue the lease of the property; that he issued a check in the amount of ₱100,000.00 as payment for the rental arrears; that two weeks thereafter, Baytion returned the check and demanded that Ernanie vacate the property; that Baytion promised that he would no longer bother them if they would just transfer to the filled-up and plane-leveled property; that on account of the said promise, he and Ernanie vacated the leased area and transferred their business to the filled-up portion; that despite the fact that they already vacated the leased

portion of the property, Baytion still filed a complaint with the barangay claiming that the filled-up portion was part of his property; that the executive officer of the barangay who conducted the investigation made a report indicating that a *mojon* was placed by him (Daclison) which showed the boundary of Baytion's property; that Baytion acknowledged the said report and agreed to put an end to the controversy; and that despite Baytion's agreement to put an end to the dispute, he still sent a demand letter to vacate.[6]

On August 25, 2009, the MeTC dismissed the case on the ground that Baytion failed to include his siblings or his co-owners, as plaintiffs in the case. The dismissal, however, was without prejudice.

Baytion appealed the case to the RTC, which ruled that the MeTC lacked jurisdiction to decide the case because the allegations in the complaint failed to constitute a case of forcible entry. Pursuant to Section 8, Rule 40 of the Rules of Court, however, the RTC did not dismiss the case and, instead, exercised its original jurisdiction over the same.

The RTC then decided that Baytion had a better right of possession over the property. The dispositive portion of its decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered ordering:
>
> 1) The defendant and other persons claiming under him to vacate and to turn over the possession of the subject property to the plaintiff; and,
>
> 2) The defendant to pay plaintiff the amount of ₱20,000.00/monthly for the use of the premises commencing from May 2008 until the subject premises is vacated.
>
> SO ORDERED.[7]

Aggrieved, Daclison filed an appeal with the CA.

The CA tackled two issues, namely: a) whether the RTC committed a reversible error when it exercised original jurisdiction of the case and decided the same on its merits pursuant to Section 8, Rule 40 of the Rules of Court; and, b) who, between Baytion and Daclison, had a better right to possess the subject property.

The CA ruled that the MeTC had no jurisdiction to hear and decide the case in a summary proceeding for forcible entry because Baytion failed

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[6] Id. at 83-84.
[7] Id. at 92.

to allege that he was in prior physical possession of the property and that he was deprived of his possession under Section 1, Rule 70 of the Revised Rules of Court. It was of the view that the present action for forcible entry had actually ripened into one for recovery of the right to possess or *accion publiciana,* which was an action in an ordinary civil proceeding in the Regional Trial Court. The action was aimed at determining who among the parties had a better right of possession of realty independent of the issue of ownership or title. It was an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[8] Thus, it agreed with the RTC when the latter correctly assumed jurisdiction over the case following the mandate of Section 8, Rule 40 of the Revised Rules of Court.[9]

As to the issue of possession, the CA concluded that Baytion, as co-owner of the subject property, had a better right to possess. It wrote:

> Xxx, it is clear that Antonio, Leonida and Ernanie were all lessees of the subject property and its improvements owned by the plaintiff. Ernanie, who is a sub-lessee of the subject property, again sub-leased the same to appellant, without authority or consent from appellee. Thus, since appellant have been possessing the subject property in his capacity as a mere sub-lessee, he cannot own the subject property and its improvements through open, continuous and adverse possession of the property. It follows then that appellee has the right to repossess the subject property.[10]

On February 5, 2015, the CA rendered the assailed decision, disposing in this wise:

> **WHEREFORE**, the instant appeal is hereby **DISMISSED** for lack of merit, and the Decision 27 April 2012 rendered by Branch 224 of the RTC of Quezon City in Civil Case No. Q-09-66145 is **AFFIRMED** *in toto.*
>
> **SO ORDERED**.[11]

Daclison filed a motion for reconsideration but it was denied by the CA in the assailed resolution.

Hence, the present petition for review raising the following

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[8] Id. at 41.
[9] Id. at 41.
[10] Id. at 43.
[11] Id. at 43-44.

ISSUES

I.

THE HONORABLE COURT *A QUO* GRAVELY ERRED WHEN IT HELD THAT THE INSTANT CASE IS AN ACCION PUBLICIANA, MORE SIGNIFICANTLY [WITH] RESPECT TO THE LAND OUTSIDE TCT NO. 221507; THAT, EFFECTIVELY, THE RESPONDENT HAS PRIOR POSSESSION OF THE PROPERTY OUTSIDE TCT NO. 221507.

II.

THE HONORABLE COURT *A QUO* GRAVELY ERRED UNDER THE LAW WHEN IT RULED THAT THE PETITIONER WAS A LESSEE OF THE SECOND PROPERTY

III.

THE HONORABLE COURT *A QUO* GRAVELY ERRED UNDER THE LAW WHEN IT RULED THAT THE SECOND PROPERTY OR LAND WAS AN UMPROVEMENT ON THE PROPERTY OF THE RESPONDENT.

IV.

THE HONORABLE COURT *A QUO* GRAVELY ERRED UNDER THE LAW WHEN IT RULED THAT THE RESPONDENT HAS LEGAL CAPACITY TO SUE.

V.

THE HONORABLE COURT *A QUO* GRAVELY ERRED UNDER THE LAW WHEN IT RULED THAT THE PETITIONER SHOULD PAY THE [RESPONDENT] THE AMOUNT OF ₱20,000 MONTHLY FOR THE USE OF THE PREMISES.[12]

Daclison insists that what is really in dispute in the present controversy is the filled-up portion between the *riprap* constructed by the government and the property of Baytion and,[13] therefore, outside of the land co-owned by Baytion. Accordingly, the RTC and the CA should have dismissed the case because the leased property was already surrendered to its owner, thereby, mooting the complaint.[14]

Daclison insists that Antonio, from whom he derived his right over the contested portion, made an open, continuous and adverse possession and use of the property when the latter extended his place of business to the filled-up portion.[15] He claims that the filled-up portion is not an improvement on the

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[12] Id. at 21-22.
[13] Id. at 23-24.
[14] Id. at 23.
[15] Id. at 26.

leased property as found by the RTC and the court *a quo*. It is a property separate and distinct from the leased property.[16]

The Respondent's Position

Baytion basically posits that although the disputed portion is outside the description of the property covered by TCT No. 221507, it forms an integral part of the latter because it is an accretion, construction, or improvement on the property and, under the law, any accretion or anything built thereon belongs to him and his co-owners.[17]

The Court's Ruling

At the outset, it was clear that the disputed property was the filled-up portion between the *riprap* constructed by the government and the property covered by TCT No. 221507. According to Daclison, the property covered by TCT No. 221507 had already been surrendered to Baytion which the latter never disputed. As such, the Court is now confronted with the question as to who between the parties has a better right over this contested portion between the land co-owned by Baytion and the constructed *riprap*.

Baytion does not have a better right over the contested portion

The RTC and the CA erred in holding that Baytion has a better right to possess the contested portion.

Baytion's contention that he owns that portion by reason of accretion is misplaced. Article 457 of the New Civil Code provides:

> To the owners of lands adjoining the banks of rivers belongs the accretion which they gradually receive from the effects of the current of the waters.

In other words, the following requisites must concur in order for an accretion to be considered, namely:

> (1) that the deposit be gradual and imperceptible;
>
> (2) that it be made through the effects of the current of the water; and,
>
> (3) that the land where accretion takes place is adjacent to the banks of rivers.[18]

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[16] Id. at 29.
[17] Id. at 125-126.
[18] *Republic of the Philippines v. CA*, 217 Phil. 483, 489 (1984).

In the case at bench, this contested portion cannot be considered an accretion. To begin with, the land came about not by reason of a gradual and imperceptible deposit. The deposits were artificial and man-made and not the exclusive result of the current from the creek adjacent to his property. Baytion failed to prove the attendance of the indispensable requirement that the deposit was due to the effect of the current of the river or creek. Alluvion must be the exclusive work of nature and not a result of human intervention.[19]

Furthermore, the disputed property cannot also be considered an improvement or accession. Article 445 of the Civil Code provides:

> Art. 445. Whatever is built, planted or sown **on** the land of another and the improvements or repairs **made thereon**, belong to the owner of the land, subject to the provisions of the following articles.
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> [Emphases supplied]

It must be noted that Article 445 uses the adverb "thereon" which is simply defined as "on the thing that has been mentioned."[20] In other words, the supposed improvement must be made, constructed or introduced within or on the property and not outside so as to qualify as an improvement contemplated by law. Otherwise, it would just be very convenient for land owners to expand or widen their properties in the guise of improvements.

In view of all the foregoing, it is the opinion of this Court that Baytion, not being the owner of the contested portion, does not have a better right to possess the same. In fact, in his initiatory pleading, he never claimed to have been in prior possession of this piece of property. His claim of ownership is without basis. As earlier pointed out, the portion is neither an accretion nor an accession. That being said, it is safe to conclude that he does not have any cause of action to eject Daclison.

WHEREFORE, the petition is **GRANTED**. The February 5, 2015 Decision and the August 3, 2015 Resolution of the Court of Appeals in CA-G.R. CV No. 99627 are **REVERSED** and **SET ASIDE.** The complaint for possession is hereby ordered **DISMISSED**.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[19] Id.

[20] http://www.merriam-webster.com/dictionary/thereon.> Last visited on March 2, 2016.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARVIC M.V.F. LEONEN
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

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