



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
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LOURDES E. RUIZ,
Petitioner,

G.R. No. 232849*

Present:

- versus -

GESMUNDO, *CJ.*, Chairperson,
CAGUIOA,
CARANDANG,
LAZARO-JAVIER,** and
GAERLAN, *JJ.*

**REYNALDO ARMADA and
DELFIN PAYTONE,¹**
Respondents.

Promulgated:

JUN 14 2021

X ----- X

DECISION

GESMUNDO, *CJ.*:

This is an appeal by *certiorari* assailing the Court of Appeals' (CA) September 6, 2016 Decision² which affirmed the July 8, 2013 Decision³ of the Regional Trial Court, Iba, Zambales, Branch 71 (RTC). The RTC decision, in turn, reversed the December 10, 2012 Decision⁴ of the 2nd Municipal Circuit Trial Court of Masinloc-Palauig, Masinloc, Zambales (MCTC) which granted petitioner's Complaint for forcible entry with injunction.

* Part of the Supreme Court Decongestion Program.

** Vice Associate Justice Rodil V. Zalameda, no part due to prior participation in the Court of Appeals.

¹ Referred to as Delfin *Paytome* in other parts of the *rollo*.

² *Rollo*, pp. 49-60; penned by Associate Justice Sesonando E. Villon, with Associate Justices Rodil V. Zalameda (now a Member of this Court) and Pedro B. Corales, concurring.

³ *Id.* at 103-112.

⁴ *Id.* at 95-102.

On February 9, 2009, Lourdes E. Ruiz (*petitioner*) filed a Complaint⁵ for forcible entry with injunction with the MCTC against Reynaldo Armada and Delfin Paytone (*respondents*). She alleged that she is the owner of Magalawa Island (*subject property*), which is covered by Transfer Certificate of Title (*TCT*) No. T-54730 and declared for tax purposes under TD No. 13-00331. She had been in peaceful occupation of the subject property until December 12, 2008, when respondents, through force, intimidation, stealth, threats, and strategy, succeeded in entering it. They cut fruit-bearing trees and constructed a house thereon. Petitioner, through her caretaker, demanded respondents to vacate, but they refused to leave. Instead, they continued to cut more trees and to construct more houses.

Respondents denied all the foregoing allegations in their Answer with Counterclaims.⁶ They alleged that respondent Reynaldo Armada (*Reynaldo*) is the son of Lucio Armada, the rightful owner of a portion of the coconut land situated on the subject property, with an area of 19,200 square meters; and that Reynaldo had only continued the ownership and possession of his father, which is evidenced by a tax declaration. They denied occupying any portion of petitioner's property.⁷

The MCTC subsequently commissioned Engineer Armando Ventura (*Engr. Ventura*) of the Provincial Environment and Natural Resources Office under the Department of Environment and Natural Resources to conduct a relocation survey on the property covered by TCT No. T-54730. On April 12, 2010, Engr. Ventura and Engr. Joel D. Abasta submitted their Geodetic Engineer's Report,⁸ which pertinently provides:

Lot 1-area occupied by defendants inside TCT No. T-54730 = 26,131 sq. m.;

Lot 2-which is a portion of Lot 2814, Palauig Cadastre is surveyed in the name of Hrs. of Alejandro Ruiz and is occupied by defendants = 687 sq. m.;

Lot 3-accretion occupied by defendants = 1,976 sq. m.;

Lot 2813, Palauig Cadastre is surveyed in the name of Hrs. [of] Alejandro Ruiz and is a portion of Plan II-4219A and is occupied by defendants = 1,208 sq. m.;

⁵ Id. at 64-67.

⁶ Id. at 76-78.

⁷ Id. at 96.

⁸ Id. at 80-E.

Found inside Lots 1, 2, 3, and 2813, as indicated on plan are two (2) nipa houses and several cottages made of semi-permanent and light materials built by defendants.

On December 10, 2012, the MCTC rendered a Decision in favor of petitioner. It held that petitioner, through her caretaker, was able to prove her prior possession of the subject property, and that respondents had deprived her of possession of a portion thereof, as shown in the geodetic engineer's report. The dispositive portion of the decision states:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the [petitioner] and against the [respondents].

1. the [respondents], their heirs, successors-in-interest and their assigns and/or persons acting for and in their behalf are ordered to immediately vacate the land in question particularly on the following lots, viz:
 - a) Lot 1 x x x with an area of 26,131 square meters inside Transfer Certificate of Title No. T-54730 registered in the name of Hector Ruiz, husband of the [petitioner];
 - b) Lot 2 x x x with an area of 687 square meters, a portion of Lot 2814, Palauig Cadastre surveyed in the name of the Hrs. of Alejandro Ruiz;
 - c) Lot 3 x x x with an area of 1, 976 square meters which is an accretion;
 - d) Lot 2813 x x x Palauig Cadastre with an area of 1,208 square meters, surveyed in the name of Hrs. [of] Alejandro Ruiz; and
2. [respondents] are ordered to remove the houses and the huts they have built on the property in question at their own expense and to restore their possession to the [petitioner].

SO ORDERED.⁹

Respondents interposed an appeal with the RTC which, on July 8, 2013, rendered a decision reversing the MCTC. The RTC held that it was erroneous for the MCTC to award possession of Lots 2, 3 and 2813 to petitioner since these are not included in the subject property.¹⁰ Moreover, there is no evidence of petitioner's prior or actual possession of Lot 1 allegedly covered by TCT No. T-54730 in the name of her husband. Petitioner's caretaker failed

⁹ Id. at 101-102.

¹⁰ Id. at 108.

to show the circumstances of respondents' entry or physical possession of the property. The evidence presented by petitioner tended to support her claim of ownership or possession *de jure*, as distinguished from *de facto* or actual possession which is the only issue to be determined in an action for forcible entry.¹¹ The dispositive portion of the RTC decision states:

WHEREFORE, premises considered, the instant appeal is granted and the Decision dated December 10, 2012 is hereby reversed.

SO ORDERED.¹²

Petitioner's motion for reconsideration having been denied, she filed an appeal with the CA.¹³

The CA Ruling

On September 6, 2016, the CA rendered the assailed Decision which affirmed the RTC decision. It held that it cannot award possession of Lots 2, 3, and 2813 in favor of petitioner since her complaint only pertained to the property covered by TCT No. T-54730.¹⁴ Moreover, in an action for forcible entry, the only issue is possession in fact, or physical possession of real property, independent of any claim of ownership. "Possession" in this case refers to possession *de facto* and not to possession *de jure*. Petitioner anchors her claim of prior physical possession of Lot 1 through her caretaker, without elaborating on the nature of his alleged actual and physical possession of the subject property. There is no evidence on record that shows that petitioner had control over, or had used the whole or even a portion of Lot 1 for any purpose. The caretaker's role in the subject property was also not specified by petitioner.¹⁵

Petitioner filed a Motion for Reconsideration¹⁶ and, consequently, a Supplement to the Petitioner's Motion for Reconsideration.¹⁷ However, the CA denied these motions through a Resolution¹⁸ dated July 14, 2017. Hence, this petition, which essentially attributes error on the part of the CA in finding

¹¹ Id. at 110-111.

¹² Id. at 112.

¹³ Id. at 55.

¹⁴ Id. at 57.

¹⁵ Id. at 58-59.

¹⁶ Id. at 136-139.

¹⁷ Id. at 140-156.

¹⁸ Id. at 62-63.

that petitioner failed to prove her prior physical possession of the subject property.

In gist, petitioner argues that she is the owner of the subject property and, as such, is entitled to possession thereof.¹⁹ The cases cited by the CA which limit the meaning of prior possession to actual physical possession do not apply to titled property. On the contrary, there are rulings by the Court which hold that the issuance of a Torrens title is proof of prior physical possession. Thus, the CA ruling which disregards petitioner's ownership or title as juridical acts of possession is contrary to law and jurisprudence.²⁰

Issue

The issue boils down to whether petitioner was able to prove her prior physical possession of the subject property. This is one of the elements that must be proved to successfully prosecute a case of forcible entry.

The Court's Ruling

The petition is partially meritorious.

The main issue presented for review is whether petitioner had proved her prior physical possession of the subject property. This is indubitably a question of fact. Thus, the preliminary matter that should be resolved is whether the Court could entertain questions of fact in this proceeding.

It is clear under Section 1, Rule 45 of the 1997 Rules of Civil Procedure that petitions for review on *certiorari* shall only raise questions of law. The reason behind the rule is that the Court is not a trier of facts and it is not its duty to review, evaluate, and weigh the probative value of the evidence adduced before the lower courts.

However, the bar on factual issues admits of certain reasonable deviations, such as when the judgment is based on misappreciation of facts or when the findings of fact of the CA are conflicting or contrary to those of the trial court. Here, the conclusions of fact of the CA and the RTC are both contradictory or conflicting with those of the MCTC. For this reason and so

¹⁹ Id. at 17-18.

²⁰ Id. at 26.



as to dispense equitable justice to those deserving, a departure from the “factual issue bar rule” is timely and in order.²¹

After examining the evidence on record, the Court gives credence to petitioner’s claim that she and her predecessors-in-interest had been in prior possession of the subject property before respondents’ intrusion.

Sec. 1, Rule 70 of the Revised Rules of Court requires that in actions for forcible entry, the plaintiff must allege that he has been deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth and the action must have been filed within one year from the time of such unlawful deprivation of possession.²² The fact of prior physical possession is an indispensable element in forcible entry cases. The plaintiff must prove that he was in prior physical possession of the premises long before he was deprived thereof by the defendant.²³

In this case, the MCTC held that petitioner traces her possession of the subject property to her deceased husband and his predecessors-in-interest, who had always been in possession of the subject property as evidenced by the presence therein of an old, dilapidated building. Petitioner is also currently in legal possession of the subject property through her caretaker. On the contrary, both the RTC and the CA found that petitioner’s evidence of prior physical possession is wanting. The RTC held that there was no physical sign that petitioner was actually in possession of the subject property.²⁴ The CA, on the other hand, found no manifestation of acts of dominion, nor evidence that petitioner had control over, or used the whole or even a portion of the subject property for any purpose. Moreover, petitioner was unable to show the nature of the actual and physical possession of her caretaker.²⁵ We uphold the MCTC.

In the case of *Frondarina v. Malazarte (Frondarina)*,²⁶ We considered certain circumstances that serve as indicators of one’s prior physical possession. One of these is the existence of tax declarations in the name of therein petitioners and their predecessors-in-interest. We have held that tax declarations are clear manifestations and strong indications of possession and occupation of a parcel of land. The tax declarations presented by therein petitioners, which were earlier than and superior to those of therein

²¹ *Frondarina v. Malazarte*, 539 Phil. 279, 291 (2006).

²² *Quizon v. Juan*, 577 Phil. 470, 477-478 (2008).

²³ *Id.*

²⁴ *Rollo*, p. 112.

²⁵ *Id.* at 58-59.

²⁶ *Supra* note 21 at 297-298.

respondents' buttress the former's claim that they had been in actual and peaceful possession of the subject property prior to therein respondents' intrusion.

In this case, both parties presented tax declarations in the names of their respective predecessors-in-interest. Petitioner presented a tax declaration in the name of her deceased husband, Dr. Hector S. Ruiz, which contains the notation "Tax under this declaration begins with the year 1987."²⁷ On the other hand, respondents presented a tax declaration in the name of Lucio Armada, respondent Reynaldo Armada's supposed predecessor-in-interest, and tax receipts in the name of respondent Reynaldo Armada. The said tax declaration contains the notation "Transferred to the declarant as per [Extra-Judicial Settlement of Estate With Waiver of Rights] executed on 28th day of July, 2004 x x x." The tax receipts in the name of respondent Reynaldo Armada are dated 2003 and 2004, respectively. Obviously, petitioner holds an earlier tax declaration. Based on these documents presented by both parties, We rule that petitioner had adduced convincing evidence of prior physical possession over the disputed lot.²⁸

Moreover, *Frondarina* considered the acts of therein petitioner as consistent with one who had been deprived of possession by force, strategy, and stealth of respondents. Said petitioner in *Frondarina* immediately confronted respondents on why they unlawfully entered their land. After such unlawful entry, therein petitioners verbally reported the incident to the Office of the City Engineer. They also sent a letter to their mayor, and complained to their city legal officer. When nothing happened to their written complaints, they filed a complaint for ejectment. We held that these acts were all in accordance with the behavior of a person who had been illegally and unfairly deprived of possession, and these clearly demonstrated that they had actually been in possession of said lot prior to respondents' forcible entry.

Similarly, in this case, the record shows that when petitioner learned of respondents' intrusion on the subject property on December 12, 2008 through her caretaker, she instructed the latter to demand respondents to vacate, but respondents refused to leave the premises and even continued to cut trees on the land and build more houses.²⁹ Petitioner consequently filed a Complaint for Forcible Entry with Injunction on February 9, 2009, less than two months since the intrusion.³⁰ As with *Frondarina*, We hold that petitioner's acts are consistent with the behavior of a person who had been illegally and unfairly

²⁷ *Rollo*, p. 72.

²⁸ *Frondarina v. Malazarte*, supra note 21 at 298.

²⁹ *Rollo*, p. 95.

³⁰ *Id.* at 64-67.

deprived of possession of her property; and that the circumstances show that she had been in possession of the subject property before respondents' forcible entry.

In addition, the Court notes that in the Transcript of Stenographic Notes³¹ taken on the ocular inspection³² conducted on the subject property on June 16, 2010, it was shown that there were existing structures owned by petitioner near the structures built by respondents. The court interpreter narrated in part:

INTERPRETER:

The land allegedly claimed by Mr. Armada has camachile, coconut, talisay and other trees. The alleged receiving house (on the eastern part) is more or less one hundred (100) meters up to another receiving house (northern portion). **But the two-door comfort rooms and a water pump, fronting the CR which is located at the back of the receiving house (northern portion) is owned by Mrs. Ruiz, according to Mr. Armada's caretaker.**³³ (emphasis supplied)

In their answer with counterclaims, respondents alleged that they "are occupying a different portion or property, distinct and separate from the alleged property of the [petitioner]."³⁴ This allegation was subsequently belied by the geodetic engineer's report, which showed that respondents actually occupied a 26,131-square meter portion of petitioner's property. This report, coupled with the fact that respondents built structures near the existing ones owned by petitioner, as shown in the ocular inspection, indubitably establish not only respondents' intrusion on the subject property, but petitioner's prior actual possession thereof.

The foregoing discussion should be sufficient to partially overturn the CA decision. However, the Court deems it proper to further explain the nature of possession that must be proved by the plaintiff in an action for forcible entry.

We have held in various forcible entry cases similar to the case at bar that for one to be considered in possession, one need not have actual or physical occupation of every square inch of the property at all times. Possession can be acquired not only by material occupation, but also by the

³¹ Id. at 88-89.

³² The ocular inspection was conducted in the presence of the MTCC Judge, the Clerk of Court, Stenographer, Interpreter, Process Server, the parties, and barangay captain.

³³ *Rollo*, pp. 88-89.

³⁴ Id. at 77.

fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right. Possession can be acquired by juridical acts, which are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, execution and registration of public instruments, and the inscription of possessory information titles.³⁵

Thus, in *Habagat Grill v. DMC-Urban Property Developer, Inc.*,³⁶ We held that prior possession of the lot by therein respondent's predecessor was sufficiently proven by evidence of the execution and registration of public instruments, and by the fact that the lot was subject to its will from then until December 1, 1993, when therein petitioner unlawfully entered the premises and deprived the former of possession thereof. In *Nunez v. SLTEAS Phoenix Solutions, Inc.*,³⁷ the Court held that although therein respondent did not immediately put the land to active use, it had caused the property to be registered in its name and had paid real property taxes due thereon. These are juridical acts that are sufficient to establish therein respondent's prior possession of the land. Likewise, in the case of *Mangaser v. Ugay*³⁸ (*Mangaser*), We held that therein petitioner acquired possession of the subject property by juridical acts, specifically, through the issuance of a free patent under Commonwealth Act No. 141 and its subsequent registration with the Register of Deeds on March 18, 1987.

Mangaser and this case share a similar factual backdrop insofar as both petitioners raised the issue of ownership of the land in dispute in order to establish the right of possession. In *Mangaser*, We determined whether the issue of ownership is material and relevant in resolving the issue of possession by referring to Sec. 16, Rule 70 of the Rules of Court. This Rule provides that the issue of ownership shall be resolved only to determine the issue of possession if the question of possession cannot be resolved without deciding the issue of ownership.

Emphasizing that Sec. 16, Rule 70 is an exception and is of limited application, We decided that the issue of ownership in *Mangaser* should be provisionally determined, and ratiocinated:

[T]his Court cannot agree with the CA that petitioner's OCT No. RP-174(13789) and his tax declarations should absolutely be disregarded. The issuance of an original certificate of title to the petitioner evidences

³⁵ *Bunyi v. Factor*, 609 Phil. 134, 141 (2009).

³⁶ 494 Phil. 603, 619 (2005).

³⁷ 632 Phil. 143, 154-155 (2010).

³⁸ 749 Phil. 372, 384 (2014).

ownership and from it, a right to the possession of the property flows. Well-entrenched is the rule that a person who has a Torrens title over the property is entitled to the possession thereof.

Moreover, his claim of possession is coupled with tax declarations. While tax declarations are not conclusive proof of possession of a parcel of land, they are good indicia of possession in the concept of an owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. Together with the Torrens title, the tax declarations dated 1995 onwards presented by petitioner strengthens his claim of possession over the land before his dispossession on October 31, 2006 by respondent.

x x x x


Against the Torrens title and tax declarations of petitioner, the bare allegations of respondent that he had prior, actual, continuous, public, notorious, exclusive and peaceful possession in the concept of an owner, has no leg to stand on. Thus, by provisionally resolving the issue of ownership, the Court is satisfied that petitioner had prior possession of the subject property. x x x³⁹ (citations omitted)

There is no reason why the foregoing ruling should not be made applicable to this case. Indeed, if the Court were to follow the ruling of the CA and disregard juridical acts to obtain prior possession, then it would create an absurd situation. It would be putting premium in favor of land intruders against Torrens title holders who had spent months, or even years, in order to register their land, and who had religiously paid real property taxes thereon. They cannot immediately repossess their properties simply because they have to prove their literal and physical possession of their property prior to the controversy. The Torrens title holders would have to resort to ordinary civil procedure by filing either an *accion publiciana* or *accion reivindicatoria* and undergo arduous and protracted litigation while the intruders continuously enjoy and reap the benefits of another man's land.⁴⁰

We find that petitioner had also proved the other elements for a complaint for forcible entry to prosper, namely, unlawful deprivation of possession by the defendant through force, intimidation, strategy, threat or stealth, and the filing of the complaint against defendants within one (1) year after such unlawful deprivation of possession.

³⁹ Id. at 385-386.

⁴⁰ Id. at 386.



The evidence on record shows that respondents entered into and occupied a substantial portion of petitioner's landholding without the latter's consent. The foundation of a possessory action is really the forcible exclusion of the original possessor by a person who has entered without right. The words "by force, intimidation, threat, strategy or stealth" include every situation or condition under which one person can wrongfully enter upon real property and exclude another, who has had prior possession therefrom. If a trespasser enters upon land in open daylight, under the very eyes of the person already clothed with lawful possession, but without the consent of the latter, and there plants himself and excludes such prior possessor from the property, the action of forcible entry and detainer can unquestionably be maintained, even though no force is used by the trespasser other than such as is necessarily implied from the mere acts of planting himself on the ground and excluding the other party.⁴¹

Furthermore, petitioner filed the action on February 9, 2009, within one (1) year from the time she had learned, through her caretaker, that she was deprived of physical possession of a portion of her property by respondents on December 12, 2008.

As a final point, We find no reason to disturb the finding of the CA that possession of the other lots cannot be awarded to petitioner. The complaint clearly pertains only to the property covered by TCT No. T-54730. As the CA held, the records do not show that petitioner was authorized by the other lot owners as their representative in filing the case against respondents. Even if she was so authorized, the action should have been filed in the name of such owners as principals and not in the name of petitioner.⁴²

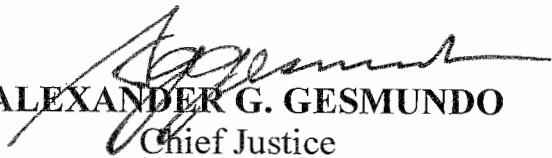
WHEREFORE, the assailed September 6, 2016 Decision of the Court of Appeals in CA-G.R. SP No. 132215, is **AFFIRMED** with respect to Lots 2, 3, and 2813, but is **REVERSED** with respect to Lot 1 covered by Transfer Certificate of Title No. T-54730. Respondents Reynaldo Armada and Delfin Paytone, their heirs, successors-in-interest, assigns, and/or persons acting for and in their behalf are **ORDERED** to **IMMEDIATELY VACATE** the land covered by Transfer Certificate of Title No. T-54730 in the name of Dr. Hector S. Ruiz, **REMOVE** the houses, huts, and any structures they have built on the property at their own expense, and **RESTORE** possession thereof to petitioner Lourdes E. Ruiz.

⁴¹ *David v. Cordova*, 502 Phil. 626, 642-643 (2005).

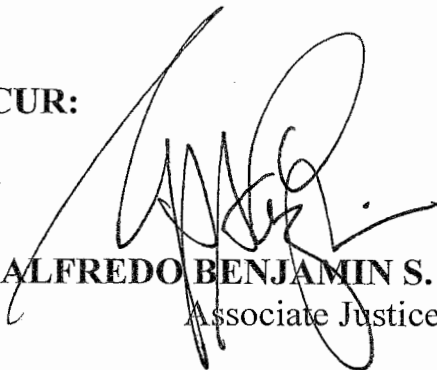
⁴² *Rollo*, p. 57.



SO ORDERED.



ALEXANDER G. GESMUNDO
Chief Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

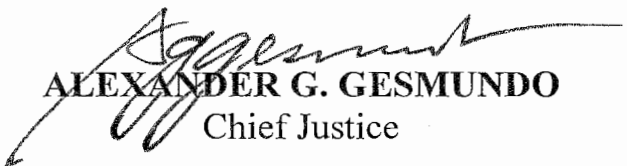

ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
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.


ALEXANDER G. GESMUNDO
Chief Justice