

## THIRD DIVISION

[ CA-G.R. SP NO. 128840, February 11, 2015 ]

**JACINTO DELA ROSA AND ALL PERSONS CLAIMING UNDER HIM,  
PETITIONER, VS. MARIANITA CABADING, RESPONDENT.**

### DECISION

**CARANDANG, J.:**

The instant petition<sup>[1]</sup> was filed to assail, on the ground of grave abuse of discretion amounting to lack or in excess of jurisdiction, the Decision<sup>[2]</sup> dated June 22, 2012 of the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 30 and the related Order<sup>[3]</sup> of the same court dated January 29, 2013, ordering petitioner to vacate the land subject of the case and to pay private respondent P2,000.00 as reasonable compensation per month from November 30, 2009 until the possession of the land is restored to said respondent.

The facts are as follows:

The subject of dispute is a rice land and a portion of a bigger unregistered Lot 2446 consisting of 49,563 square meters. Both parties claimed ownership and prior physical possession of the said property.

According to respondent-plaintiff Marianita Cabading (or Marianita), the subject rice land is a portion of land described as Lot 2446 Pls 836-02-03-000467, located at Inaban, Dupax del Norte, Nueva Viscaya, covered by a Tax Declaration No. 2005-10006-0501 issued in her name. Said Lot 2446 has a total area of 49,563 square meters which she acquired from Pedro Ramos through a transfer of Homestead Rights<sup>[4]</sup> dated January 27, 1982 and Quitclaim Deed of Unregistered Land<sup>[5]</sup> dated June 6, 1981. From the time of her acquisition, she was in physical and material possession of the land as she started cultivating, improving and tilling the same.

On November 30, 2009, she instructed some of her farm workers headed by her caretaker Jeoffrey D. Plamo to plow the rice field portion of Lot 2446. Petitioner-defendant Jacinto Dela Rosa [*or* Jacinto] and his relatives came from nowhere and they stopped her workers from finishing their job. Armed with bolos, Jacinto and his companions entered and took over the possession of the rice field by force, threat and intimidation. Marianita and her workers went back to the rice field and witnessed Jacinto and his relatives/workers planting palay on her rice field.

Marianita referred the incident to the Office of the Punong Barangay of Inaban, Dupax del Norte, Nueva Viscaya but no settlement was reached by the parties.<sup>[6]</sup> Marianita tried to talk with Jacinto but her efforts to reach a compromise agreement also failed. The demand letter to vacate the land sent by her lawyer was also ignored by Jacinto. On January 13, 2010, she filed a Complaint<sup>[7]</sup> for Forcible Entry

with Damages against Jacinto and all persons claiming under him, docketed as Civil Case No. 569 before the Municipal Circuit Trial Court (MCTC) of Dupax del Norte, Nueva Viscaya.

In defense, Jacinto denied forcibly entering the disputed property. According to him, it was Marianita and her workers who forcibly entered the land being occupied by him. He and his predecessors-in-interest had been in physical possession of the land as early as World War II. They are the real owners of the subject land but due to poverty and ignorance they were not able to cause the titling thereof.

Jacinto pointed out that the complaint is deficient, as it failed to mention the metes and bounds or at least the location of the land being claimed by the plaintiff. He further claims that the signatures of Pedro Ramos in the "Transfer of Homestead Rights and Quitclaim of a Deed of Unregistered Land" dated January 27, 1982 and June 06, 1981 were falsified. By way of counterclaim, Jacinto prayed for the payment of moral and exemplary damages plus attorney's fees.

The MCTC dismissed Marianita's complaint because 1] plaintiff failed to establish that defendants forcibly entered the subject property as it was proved by the latter that he and his predecessors-in-interest were in possession of the land; 2] plaintiff failed to prove the location and exact area of the disputed land; and, 3] if the basis of the plaintiff's possession of the subject land is the Decision<sup>[8]</sup> dated September 5, 1994 in Civil Case No. 101 awarding possession of Lot 2446 in her favor, the action for forcible entry filed only on January 13, 2010 had already prescribed.

On appeal, the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, Branch 30, reversed and set aside the MCTC Decision. In brushing aside the MCTC findings, the RTC ruled that: 1] the action for forcible entry has not yet prescribed as the dispossession happened on November 30, 2009 while the complaint was filed on January 13, 2010 or within one year from the time of dispossession; 2] the land subject of the complaint in civil case no. 101 decided by the RTC in 1994 is the same piece of land being claimed by the defendant in this forcible entry case; and 3] plaintiff has prior possession of the subject property before it was forcibly taken by defendant on November 30, 2009.

Hence, the instant petition filed by Jacinto arguing that:

**I. THE REGIONAL TRIAL COURT MISERABLY FAILED TO APPRECIATE FACT SUPPORTING THE DECISION OF THE TRIAL COURT THAT THE ACTION OF FORCIBLE ENTRY PRESCRIBED.**

**II. THE REGIONAL TRIAL COURT FAILED TO APPRECIATE THE FACTS THAT PETITIONER AND HIS PREDECESSORS-IN-INTEREST HAVE BEEN IN POSSESSION OF THE LAND IN QUESTION IN THE CONCEPT OF OWNERSHIP FOR MORE THAN 50 YEARS.**

**III. THE REGIONAL TRIAL COURT REVERSED THE FINDING OF THE MUNICIPAL CIRCUIT TRIAL COURT THAT THE RESPONDENT DID NOT KNOW THE METES AND BOUNDS OF HER PROPERTY THUS SHE WAS (*sic*) TO PROVE THE PORTION SHE WAS ALLEGEDLY DISPOSSESSED OFF (*sic*).**