

## FIFTH DIVISION

[ CA-G.R. SP NO. 73216, August 08, 2006 ]

**DOMINADOR TAMSI, PETITIONER, VS. MIRAFLOR Z. GACAYAN,  
RESPONDENT.**

### D E C I S I O N

**BARRIOS, J.:**

A complaint for *Unlawful Detainer* was lodged by the respondent Miraflor Z. Gacayan (or hereafter Gacayan) against the spouses Dominador Tamsi and Leonida Tamsi (or the Tamsis) before the Municipal Trial Court of Baguio City (or MTCC) which was docketed as Civil Case No. 11718.

The decision rendered was unfavorable to Gacayan who appealed to the Regional Trial Court (or RTC) of the same city where it was docketed as Civil Case No. 5228-R.

The RTC reversed and set aside the MTCC ruling, hence this petition for review by Tamsi.

In her complaint, Gacayan averred that she is the owner and lawful possessor of a land and building in the corner of the Alley and Subdivision Road, Victoria Village, Baguio City. In 1984 her mother Ildefonsa allowed the Tamsis to occupy this on condition that they would vacate when the Gacayans would require it. On June 10, 2000, Gacayan informed the Tamsis that they now have need of the property and gave them one (1) year or until June 10, 2001 within which to vacate. The Tamsis agreed, but did not make good on their promise. Formal demand to vacate was sent them but the Tamsis still failed and refused to leave the premises and so Gacayan filed this suit for *Unlawful Detainer* before the MTCC on October 22, 2001.

In their traverse, the Tamsis alleged lack of jurisdiction over the action, prescription and laches. Also, they denied Gacayans' alleged ownership and possession of the lot and the house standing thereon. The lot is a public land and they occupied this in 1984 when this still had a steep terrain. Through their efforts and without any assistance from the Gacayans, they constructed a house on this lot. The Tamsis claimed that the Gacayans had no legal right to demand their eviction and so they prayed for the dismissal of the complaint.

On March 22, 2002, the MTCC rendered its Decision decreeing that:

**WHEREFORE**, on grounds of no valid cause of action against the defendants, the Courts **DISMISSES** the Complaint and the plaintiff is ordered to pay the cost of this suit.

SO ORDERED. (p. 37, rollo)

But on appeal this was reversed and set aside by the RTC in the assailed Decision dated August 29, 2002, the decretal portion of which reads:

WHEREFORE, premises considered, the decision of the Municipal Trial Court, Branch 3, Baguio City, dated March 22, 2002 appealed from is reversed and set aside and a new one in its instead as follows:

1. Ordering the defendants Dominador Tamsi and Leonida Tamsi and their children and all persons claiming rights under them to vacate the house owned by plaintiff Mariflor Gacayan standing on Lot 18, Block 52 (previously Block 53), Victoria Village Baguio City and turn over the same and restore possession thereof to Miraflor Gacayan;
2. Ordering the defendants Dominador Tamsi and Leonida Tamsi and all their children and all persons claiming rights under them to vacate the premises of the land, Lot 18, Block 52 (previously Block 53), Victoria Village Baguio City and turn over the same and restore possession thereof to its lawful possessor Miraflor Gacayan;
3. Ordering the defendants and their children and all those claiming rights under them to remove all their improvements on Lot 18, Block 52, Victoria Village, Baguio City, within 30 days from the time the judgment becomes final, otherwise, If the defendants fail to remove the same as herein ordered, the said improvements shall be removed at their expense in a special order of demolition that may be applied for hereafter by the plaintiff;
4. Ordering the defendants to pay the sum of P2,000.00 a month as reasonable compensation for the use of the one-storey house of plaintiff Mariflor Gacayan from September 15, 2001 until they shall have vacated the premises, removed improvements and turned over and restored possession thereof to the plaintiff.
5. To pay the costs.

SO ORDERED. (pp. 30-31, rollo)

Hence this petition for review with the Tamsis assigning as the errors committed by the RTC the following:

1.

THE APPELATE (sic) COURT ERRED IN NOT DISMISSING THE CASE FOR LACK OF JURISDICTION OF THE LOWER COURT.

2.

THE APPELLATE COURT ERRED IN FINDING THAT RESPONDENT WAS IN PRIOR PHYSICAL POSSESSION OVER THE LAND OF PETITIONER DESPITE FAILURE OF THE LATTER TO ADDUCE SUBSTANTIAL EVIDENCE TO WARRANT HER CLAIM