

# FIRST DIVISION

[ G.R. No. 217576, January 20, 2020 ]

**PATRICK G. MADAYAG, PETITIONER, VS. FEDERICO G. MADAYAG, RESPONDENT.**

## DECISION

**REYES, J. JR., J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>[2]</sup> dated October 31, 2014 and the Resolution<sup>[3]</sup> dated February 24, 2015 of the Court of Appeals (CA) in CA G.R. SP No. 134040, which reversed the Decision<sup>[4]</sup> dated August 3, 2012 of the Regional Trial Court (RTC) of Baguio City in Civil Case No. 7567-R and accordingly, reinstated the Judgment<sup>[5]</sup> dated January 6, 2012 of the Municipal Trial Court in Cities (MTCC) of Baguio City in MTCC Case No. 13478.

### The Facts

Patrick G. Madayag (Patrick), Federico G. Madayag (Federico), Dionisio Madayag (Dionisio), Arthuro Madayag (Arthuro), Lourdes Madayag Dennison (Lourdes), and Carlos Madayag (Carlos) are all children of the spouses Anatalio Madayag (Anatalio) and Maria Consuelo Madayag (Maria Consuelo).<sup>[6]</sup>

Anatalio was an employee of John Hay Air Base during his lifetime. As such, he was allowed to occupy a parcel of land in a housing facility for John Hay Air Base's employees located at Lot 24, Block 7, Scout Barrio Housing Project, Baguio City with an area of 493 square meters. Anatalio built a residential building thereon which served as the family home. Notably, said housing facility was under the jurisdiction of the Bases Conversion Development Authority (BCDA).<sup>[7]</sup>

After their father and mother passed in 1979 and 1994, respectively, or on February 7, 1994, the siblings agreed to execute a Deed of Adjudication of Real Property and Quitclaim, whereby Federico, along with his brothers Dionisio, Arthuro, and Carlos waived and relinquished their interest in the property in favor of Patrick and their sister, Lourdes, who is an American citizen.<sup>[8]</sup>

Sometime in 2002, BCDA issued a Certificate of Lot Award in favor of the "Heirs of Anatalio F. Madayag." This Certificate was, however, cancelled and corrected as attested to by Bobby Akia, an officer of the Land and Asset Development Division of the John Hay Management Corporation, by virtue of the said Deed.<sup>[9]</sup> Consequently, on March 20, 2006, a Certificate of Lot Award was issued by the BCDA solely in favor of Patrick, and his named co-owner in the Deed, Lourdes, being an American citizen. By virtue thereof, BCDA sold the parcel of land to Patrick per Deed of Absolute Sale dated March 4, 2009. Two days later, or on March 6, 2009, the subject

parcel of land was registered under Patrick's name as evidenced by Transfer Certificate of Title (TCT) No. 98257.<sup>[10]</sup>

On November 5, 2010, Patrick filed a Complaint for Forcible Entry and Damages against Federico, averring that after the subject property was adjudicated by the siblings to him and their sister, Lourdes, he took possession of the same and made improvements thereon, making it his residence whenever he goes to Baguio City from the United States of America (USA). He, however, learned later on that Federico entered and occupied the subject property without his permission. When he came back from the USA sometime in March 2010, he tried to settle the matter with his brother, but instead of apologizing, Federico threatened Patrick with bodily harm if he comes back to Baguio.<sup>[11]</sup>

For his part, Federico averred in his Answer with Special and Affirmative Defenses that the subject property is an ancestral and family home put up by their parents; that upon the death of their parents, he and his siblings became co-owners thereof; that the Deed of Adjudication of Real Property and Quitclaim was agreed upon by the siblings to be executed merely for the purpose of facilitating the award and titling of the property, with the clear understanding that the same will remain to be their ancestral and family home to be enjoyed by any of the siblings including their respective families. Federico further averred that Patrick cannot invoke that he was in prior physical possession of the property when he never possessed the property exclusively on his own. Neither was it right for Patrick to claim that he was the one who introduced the improvements in the subject property when it was their sister, Lourdes, who primarily provided therefor.<sup>[12]</sup>

### **The MTCC Ruling**

In a Judgment dated January 6, 2012, the MTCC dismissed Patrick's Complaint, ruling that he failed to sufficiently allege, much less prove, an essential element of a forcible entry case, *i.e.*, that he had prior physical possession of the property. Further, the MTCC found the Complaint lacking of allegations that Patrick was dispossessed of the subject property by force, intimidation, threats, strategy, or stealth. In fact, the allegations in the Complaint showed that the alleged dispossession of the property was not done, if at all, by any of the means above-cited. The MTCC disposed, thus:

WHEREFORE, premises considered, this case is hereby *dismissed*.

No pronouncement as to costs.

SO ORDERED.<sup>[13]</sup>

### **The RTC Ruling**

On appeal, the RTC reversed the MTCC's Judgment, finding that the Complaint sufficiently alleged Patrick's prior possession of the property, as well as that he was dispossessed thereof by Federico through stealth. Specifically, the RTC ruled that Patrick's allegation that he "took possession of the house and made improvements, using the same as his residence whenever he comes up to Baguio" after the siblings executed the Deed of Adjudication of Real Property and Quitclaim in his and Lourdes' favor, was sufficient allegation of prior possession. Likewise, according to the RTC, Patrick's allegation that Federico "entered and occupied the house" without

the former's knowledge and consent, "taking advantage of [his] absence" is a sufficient allegation of stealth or strategy.

Moreover, the RTC ruled that both elements of forcible entry were proven by Patrick's evidence. The RTC held that prior physical possession does not only mean actual or physical possession, but also possession acquired by juridical acts, which in this case was through the adjudication of the subject property to Patrick and Lourdes, and the subsequent registration thereof in Patrick's name. That it was by means of stealth that Patrick was dispossessed of the property was also proven by his allegation that he discovered Federico's possession and occupation thereof only upon his return from the USA. Thus:

WHEREFORE, all premises duly considered, the Decision of the first level court in Civil Case No. MTCC Case No. 13478 is hereby reversed and set aside.

The [respondent], Federico G. Madayag, his predecessors-in interest, and all persons under him are hereby ordered to vacate the property subject matter of this case located at No. 63 Scout Barrio Housing Project, Baguio City, and to peacefully turn-over possession thereof to [petitioner], Patrick G. Madayag.

SO ORDERED.<sup>[14]</sup>

Federico's motion for reconsideration was denied by the RTC in its Order<sup>[15]</sup> dated March 14, 2013.

### **The CA Ruling**

In its assailed Decision, the CA reversed the RTC Decision and reverted to the MTCC Judgment, emphasizing on the essential elements of a forcible entry suit, which must be sufficiently alleged and proved. The CA ruled that when the law speaks of prior physical possession in forcible entry cases, the law speaks of possession *de facto* as distinguished from possession *de jure*. Citing jurisprudence, the CA also held that a complaint for forcible entry should also specify what made the activities alleged therein illegal and what made the entry unlawful.

In reviewing the allegations in the Complaint, the CA found that the allegation of prior physical possession therein does not satisfy the requirement in forcible entry cases. The CA found no allegation that Patrick physically possessed the property and was ousted therefrom by Federico through force, intimidation, threat, strategy or stealth. The CA emphasized that the claim of prior physical possession by virtue of absolute ownership, or possession as an attribute of ownership, is not the same as actual possession or possession *de facto*. Further, Patrick failed to allege how he was deprived of possession of the property by Federico as he simply stated that the latter entered and occupied the house, without specifying how and when entry and possession was effected.

In addition, the CA sustained the alleged agreement among the siblings, invoked by Federico, that the subject property remains to be the ancestral and family home which could be freely used by any member of the family. One of their brothers, Dionisio, executed an affidavit attesting to such agreement. The Certificate of Lot Award issued by the BCDA, proving that the subject parcel of land was awarded to the "Heirs of Anatalio F. Madayag" was also presented.

The CA, therefore, ruled:

WHEREFORE, the Decision dated August 3, 2012 and Order dated March 14, 2013 of the Regional Trial Court are reversed and set aside. The Judgment dated January 6, 2012 of the Municipal Trial Court in Cities is reinstated.

SO ORDERED.

### **The Issue**

Did the CA err in reinstating the MTCC Judgment dismissing Patrick's complaint for forcible entry?

### **The Court's Ruling**

We answer in the affirmative.

The invariable rule is that what determines the nature of the action, as well as the court has jurisdiction over the case, are the allegations in the complaint.<sup>[16]</sup> In ejectment cases, the complaint must state and sufficiently show on its face the essential facts laid down under Section 1, Rule 70 of the Rules of Court, to give the court jurisdiction without resort to parol evidence.

The above-cited provision requires that in action for forcible entry, as in this case, it must be alleged that the complainant was deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, and that the action was filed anytime within one year from the time the unlawful deprivation of possession took place,<sup>[17]</sup> except that when the entry is through stealth, the one-year period is counted from the time the complainant learned of the dispossession.<sup>[18]</sup> It is not necessary, however, for the complainant to utilize the language of the statute.<sup>[19]</sup> It would suffice that the facts are set up, showing that complainant has prior physical possession of the property in litigation and that he was dispossessed thereof through defendant's unlawful act/s constituting force, intimidation, threat, strategy, or stealth.<sup>[20]</sup>

It is imperative, thus, to carefully scrutinize the allegations in the Complaint to determine whether the required jurisdictional averments were complied with. Pertinent portions thereof are quoted herein, viz.:

3. [Patrick] is an owner of a 493[-]square[-]meter parcel of land, known as Lot 24, Block 7, located at No. 63 Scout Barrio Housing Project, Baguio City, having acquired the same from Bases Conversion Development Authority (BCDA). Copy of the Deed of Sale and Certificate of Title are hereto attached[.]

4. Standing on the lot is a one-storey residential house which was the subject of a DEED OF ADJUDICATION OF REAL PROPERTY AND QUITCLAIM dated February 4, 1994 in favor of [Patrick] and his sister, Lourdes M. Dennison, an American citizen. Copy of the deed is hereto attached[.]

**5. Thereafter, [Patrick] took possession of the house and made improvements, using the same as his residence whenever he**