

SECOND DIVISION

[G.R. No. 221384, November 09, 2020]

**MARVIN A. GALACGAC, PETITIONER, VS. REYNALDO BAUTISTA,
RESPONDENT.**

R E S O L U T I O N

LOPEZ, J.:

The court may dismiss a complaint for unlawful detainer based on lack of cause of action if the plaintiffs supposed act of tolerance is not present right from the start of the defendant's possession. This resolves the Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assailing the Court of Appeals (CA) Decision^[2] dated May 18, 2015 and Resolution^[3] dated September 28, 2015 in CA-G.R. SP No. 131043.

ANTECEDENTS

In 2012, Benigno M. Galacgac (Benigno) filed against Reynaldo Bautista (Reynaldo) an action for unlawful detainer over a 180-square meter portion of Lot No. 10973 before the Municipal Trial Court in Cities (MTCC) of Laoag City, Branch 02. Allegedly in 1993, the heirs of Ines Mariano, namely: Cirila Dannug-Martin, Maxima Dannug-Dannug (Maxima), Arcadia Dannug-Pedro (Arcadia), and Isabel Dannug-Bulos (Cirila, *et al.*), partitioned and adjudicated the disputed area in favor of Benigno pursuant to a contingency fee agreement in consideration of his legal services in a civil case involving the property. On the same year, Benigno allowed Cirila, *et al.*'s caretaker, Saturnino Bautista (Saturnino), to occupy the land on condition that he will construct a house of light materials and will surrender its possession when needed. Later, Benigno learned that Saturnino's son, Reynaldo, started building a house of strong materials. Accordingly, Benigno sent demand letters to Reynaldo asking to defer the construction and to vacate the premises.^[4]

On the other hand, Reynaldo claimed ownership of the disputed portion and averred that Maxima and Arcadia sold to him their shares over Lot No. 10973. Also, Reynaldo argued that the adjudication of the property to Benigno is void because he is prohibited from acquiring properties in litigation. Lastly, the contingency fee agreement and the partition were not recorded in the Register of Deeds and could not affect third persons.^[5]

On June 29, 2012, the MTCC dismissed the complaint and ruled that Reynaldo's authority to possess the land emanated from the heirs of Ines Mariano and not from Benigno,^[6] to wit:

The insistence of plaintiff of an alleged agreement with the father of the defendant respecting the latter's possession in the land cannot be seriously taken with much weigh[t] by the court in view of the denial by the defendant that such ever existed, and in the absence of any written

contract to support such claim, and corollary to the principle on dead man's statute or the survivorship disqualification rule. By all indication, the father of the defendant, Saturnino Bautista, was the care taker of the Dannug sisters for a long time even before the start of litigation relative to the land suit, and was in fact been living in a house erected at the southern portion of the lot. **Hence, the court find[s] no reason for the latter to ask plaintiff's permission to possess the lot because, first of all, he was already in possession [of] the lot under the authority of the Dannug sisters, heirs of the declared owner Ines Mariano. Thus, there can be no implied tolerance to speak of in so far as defendant is concerned that calls for an implied promise to vacate upon demand precisely because [the] defendant have [sic] no contract with the plaintiff whatsoever in regard with his possession on the lot in suit. To reiterate, defendant's authority to possess the land, from the evidence presented, emanates not from the plaintiff but from the heirs of the late Ines Mariano, the Dannug sisters, Maxima D. Dannug and Arcadia Dannug-Pedro, by virtue of the public documents executed. x x x.**

x x x x

Accordingly, there being no termination of any express or implied contract that eventually leads to unlawfully withholding possession of the land that is present in the instant case, this summary action for the ejectment of the defendant from the premises cannot be given due course by the Court.

WHEREFORE, premises considered, this case is hereby ordered DISMISSED.

No pronouncement as to cost.

SO ORDERED.^[7] (Emphasis supplied.)

Dissatisfied, Benigno appealed to the Regional Trial Court (RTC). However, Benigno died and was substituted by his heir Marvin A. Galacgac (Marvin). On May 30, 2013, the RTC reversed the MTCC's findings and ordered Reynaldo to surrender the possession of the lot. The RTC noted that Cirila, *et al.* had not impugned the validity of the deed of partition and adjudication while Reynaldo cannot raise its illegality because he is not a party to the instrument. Moreover, the RTC held that Benigno has a better right because the land was adjudicated to him long before the sale in favor of Reynaldo,^[8] viz.:

WHEREFORE, the Decision of the Municipal Trial Court in Cities, Branch II, Laoag City is reversed and set aside as judgment is hereby rendered in favor of plaintiff-appellant Benigno M. Galacgac. Defendant-appellee Reynaldo Bautista including his heirs, assigns, agents, representatives and any person acting in his behalf, is therefore directed to vacate the southwestern portion consisting of 180 square meters of Lot No. 10973, Laoag Cadastre, and immediately deliver possession thereof to plaintiff-appellant.

Costs against defendant-appellee.

SO ORDERED.^[9]

Unsuccessful at a reconsideration, Reynaldo elevated the case to the CA on the ground that the RTC erred in upholding Benigno's possession over the lot. On May 18, 2015, the CA reinstated the MTCC's decision dismissing the complaint and explained that Benigno failed to prove his supposed act of tolerance from the start of Reynaldo's occupation,^[10] thus:

Record bears that respondents failed to prove that petitioner's possession of the subject property was merely based on the alleged tolerance of respondent Benigno M. Galacgac. Although it was alleged in the complaint that respondent Benigno M. Galacgac allowed petitioner's father to occupy the disputed land in 1993, there was no allegation that the same accommodation was extended to petitioner. **It was not even made clear when petitioner obtained the alleged permission of respondent Benigno M. Galacgac to occupy the land,** which only bolstered petitioner's contention that he derived his title over the land from Maxima D. Dannug and Arcadia Dannug-Pedro, heirs of Ines Mariano, not from respondent Benigno M. Galacgac.

Notably, in support of petitioner's claim that his possession of the disputed property was in the concept of an owner, not by the mere tolerance of respondents or their predecessor respondent Benigno M. Galacgac, petitioner presented before the MTCC a Confirmation of Sale dated March 12, 2012 signed by Maxima D. Dannug and Arcadia Dannug-Pedro, confirming the sale made on September 10, 2000 of the latter's respective undivided 90 square-meter shares over Lot No. 10973 in favor of petitioner. x x x:

x x x x

Since petitioner's possession of the subject premises is in the concept of his claim of ownership and not by mere tolerance of respondent Benigno M. Galacgac, respondents cannot simply oust petitioner from possession through the summary procedure of an ejectment proceeding. Respondents must resort to the appropriate judicial action and cannot simply invoke the unregistered "Deed of Adjudication with Disposition and Partition" in the summary procedure for the ouster of petitioner. Again, the Court's determination of the issue of ownership in the present case is merely provisional for the purpose only of resolving the question of possession, and does not bar an appropriate action for the determination of legal ownership over the property.

WHEREFORE, the Regional Trial Court's Decision dated May 30, 2013 and Order dated July 5, 2013 are REVERSED and SET ASIDE. Consequently, the MTCC Decision dated June 29, 2012 dismissing the complaint for ejectment is REINSTATED.

SO ORDERED.^[11] (Emphases supplied.)

Marvin sought reconsideration but was denied.^[12] Hence, this recourse. Marvin maintains that his father, Benigno, alleged and proved the elements of an action for unlawful detainer.