

THIRD DIVISION

[G.R. No. 214546, October 09, 2019]

**PHILIPPINE LONG DISTANCE TELEPHONE COMPANY,
PETITIONER, VS. CITI APPLIANCE M.C. CORPORATION,
RESPONDENT.**

DECISION

LEONEN, J.:

An action for forcible entry must be filed within one (1) year from the date of actual entry on the land. However, when the entry was done through stealth, the one-year time bar is reckoned from the time the entry was discovered.^[1] In contrast to unlawful detainer suits, no previous demand to vacate is required before an action for forcible entry may be filed.^[2]

This Court resolves a Petition for Review^[3] filed by Philippine Long Distance Telephone Company (PLDT) assailing the Decision^[4] and Resolution^[5] of the Court of Appeals, which ordered PLDT to realign its transmission lines and restitute the premises to Citi Appliance M.C. Corporation (Citi Appliance).

Since 1992, Citi Appliance has owned a parcel of land in Cebu City. Sometime in 2003, it decided to construct a 16-storey commercial building on it.^[6]

The Cebu City Zoning Board required Citi Appliance to construct a one-level parking area consisting of 26 parking slots. To comply with this requirement, Citi Appliance had to make a deep excavation to lay the foundation of the parking lot. In the process, it discovered telephone lines, cables, and manholes underground, which had been placed there by PLDT sometime in 1983. These encroached on Citi Appliance's property, preventing it from excavating the land.^[7]

In April 2003, Citi Appliance applied for exemption from the parking requirement, which the Cebu City Zoning Board initially granted on May 22, 2003.^[8] However, upon reconsideration, the Cebu City Zoning Board denied the exemption and required Citi Appliance to pay the parking exemption fee of P3,753,600.00.^[9]

On April 26, 2004, Citi Appliance wrote PLDT, demanding that it remove the underground telephone lines, cables, and manholes, or to shoulder the parking exemption fee. On May 28, 2004, Citi Appliance made a final demand on PLDT to comply until June 15, 2004; otherwise, it would file an appropriate action in court.^[10]

When PLDT still refused to comply, Citi Appliance filed a complaint for ejectment against PLDT.^[11]

In its Answer, PLDT alleged that its telephone lines, cables, and manholes did not encroach on Citi Appliance's property as they were properly positioned alongside and underneath a public sidewalk.^[12] It later filed an Amended Answer, arguing that the case should be dismissed since the action for forcible entry had prescribed.^[13] It expounded in its Position Paper that the one-year prescriptive period within which to bring an action for forcible entry based on stealth should be reckoned from the discovery of the alleged unlawful entry, not the last demand to vacate.^[14]

Moreover, PLDT argued that the area in question was part of public domain, it being a sidewalk.^[15] Assuming that the property did belong to Citi Appliance, PLDT averred that it had the right of eminent domain.^[16]

In its December 6, 2010 Decision,^[17] the Municipal Trial Court in Cities granted Citi Appliance's ejectment complaint. The dispositive portion of the Decision read:

WHEREFORE, premises considered, this complaint for EJECTMENT is hereby GRANTED. Defendants are (*sic*) hereby ordered to comply with the demand of the plaintiff to either realign its transmission lines as to allow the plaintiff to be able to implement its planned construction works on its own land or to pay the rent to the plaintiffs (*sic*) at the rate of P15,000.00 per month. Costs *de oficio*.

SO ORDERED.^[18]

After comparing the relocation plan submitted by PLDT with the geographical boundaries of Citi Appliance's property, the Municipal Trial Court in Cities found that PLDT's telephone lines, cables, and manholes were located within Citi Appliance's property.^[19]

The Municipal Trial Court in Cities also ruled that the complaint for forcible entry was timely filed. Relying on *Philippine Overseas Telecommunications v. Gutierrez*,^[20] it held that when unlawful entry was made clandestinely, the one-year prescriptive period should be counted from the last demand to vacate.^[21]

As to PLDT's argument that the property was part of public domain, the Municipal Trial Court in Cities ruled that PLDT failed to proffer any evidence showing that these areas have been expropriated by the National Government and/or the City Government of Cebu. As to PLDT's claim of eminent domain, it ruled that PLDT failed to show it properly exercised this right.^[22]

In its May 13, 2011 Resolution,^[23] the Regional Trial Court affirmed with modification the Municipal Trial Court in Cities' Decision. The dispositive portion of its Resolution read:

WHEREFORE, foregoing premises considered, the decision of the first level court, Municipal Trial Court in Cities Branch 1 is UPHELD with MODIFICATION. Defendant-appellant is ordered to realign its transmission to allow plaintiff-appellee to implement its planned construction works on its own land; pending the said realignment, defendant-appellant is ordered to pay plaintiff-appellee rent at the

monthly rate of FIFTEEN THOUSAND (P15,000.00) PESOS.

Defendant-appellant to pay the costs of the proceedings.

SO ORDERED.^[24]

As with the lower court, the Regional Trial Court also relied on *Philippine Overseas Telecommunications* and ruled that the one-year prescriptive period within which to bring an action for forcible entry based on stealth should be counted from the demand to vacate.^[25]

PLDT then filed a Petition for Review.^[26] However, in its January 14, 2014 Decision, ^[27] the Court of Appeals affirmed the lower tribunals' findings. It further ruled that both restitution of the premises and payment of rents in arrears must be awarded to Citi Appliance. The dispositive portion of the Decision read:

WHEREFORE, the May 13, 2011 Resolution of the Regional Trial Court, Branch 14, Cebu City is AFFIRMED with MODIFICATION. The petitioner Philippine Long Distance and Telephone and (sic) Company (PLDT) is ordered to realign its transmission lines and retribute to the respondent Citi Appliance M.C. Corporation, the premises where these transmission lines are located on Lot No. 806-I. The petitioner is likewise ordered to pay monthly rental of Fifteen Thousand (P15,000.00) pesos to the respondent from the date of the last demand that was made on May 28, 2004.

SO ORDERED.^[28]

Citing *Elane v. Court of Appeals*,^[29] *Ganancial v. Atillo*,^[30] and *Philippine Overseas Telecommunications*, the Court of Appeals held that the one-year period within which to file a forcible entry case based on stealth should be counted from the time when demand to vacate was made.^[31]

PLDT moved for reconsideration of the Decision. Later, it moved that a public survey be conducted to determine the exact location of the underground telephone lines, cables, and manholes. The Court of Appeals, however, denied both motions in its July 21, 2014 Resolution.^[32]

Aggrieved, PLDT filed before this Court a Petition for Review on Certiorari^[33] assailing the Court of Appeals' Decision and Resolution.

Petitioner maintains that the Municipal Trial Court in Cities had no jurisdiction over the case since respondent Citi Appliance's action for forcible entry had prescribed. It contends that the one-year prescriptive period for forcible entry based on stealth should be reckoned from the discovery of the unlawful entry, not from the last demand to vacate.^[34]

According to petitioner, while there is no exact date when respondent discovered the underground telephone lines, cables, and manholes, it may be inferred that respondent made the discovery sometime before it applied for the parking exemption. Petitioner contends that the date of respondent's discovery should at

least be reckoned from May 22, 2003, when the Cebu City Zoning Board initially granted respondent's application for exemption. Since respondent filed the ejectment suit on October 1, 2004, roughly one (1) year and four (4) months after it had discovered petitioner's alleged encroachment, the action had already prescribed.^[35]

Further arguing that the lower tribunals misconstrued *Elane*, *Ganancial*, and *Philippine Overseas Telecommunications*, petitioner asserts that in a forcible entry case, based on stealth, it is illogical to reckon the prescriptive period from the date of demand, as it would render the summary nature of ejectment proceedings futile.^[36] It submits that nothing in the cases cited tells that the one-year prescriptive period must be reckoned from the date of the last demand to vacate.^[37] It adds that it cannot be ejected without being given a chance to exercise its right of eminent domain or to exercise its rights as a builder in good faith.^[38]

Petitioner avers that under Article 448 of the Civil Code, respondent may choose to acquire the installed lines and cables upon payment of indemnity, but until then, petitioner has the right to retain the land.^[39] Hence, it should neither be ordered to pay rentals nor be immediately ejected from the premises.^[40]

Lastly, petitioner contends that its lines and cables are under the sidewalk, not on respondent's property. It asserts that a public survey will prove its claim, which was why it had moved for the conduct of a public survey. Thus, it submits before this Court that a public survey must be first be conducted to settle the issue.^[41]

In its Comment,^[42] respondent argues that petitioner can no longer raise the Municipal Trial Court in Cities' lack of jurisdiction as an issue at this stage of the proceedings.^[43] It points out that petitioner, in its Answer before the Municipal Trial Court in Cities, only raised the issue of jurisdiction over its person, not the jurisdiction over the subject matter of the case.^[44]

Assuming that petitioner's belated defense may be entertained, respondent contends that the lower tribunals correctly ruled on the reckoning point of the one-year prescriptive period.^[45] Since respondent filed the ejectment suit within five (5) months after its last demand to vacate, the Municipal Trial Court in Cities had jurisdiction over the subject matter.^[46]

Moreover, respondent argues that petitioner's claim of right as a builder in good faith and right of eminent domain are raised belatedly only on appeal.^[47]

In its Reply,^[48] petitioner argues that there is no cause of action for ejectment because the element of prior physical possession of respondent is absent.^[49] Contrarily, it is petitioner who has prior physical possession since 1983, nine (9) years before respondent became the property owner.^[50] Respondent's Certificate of Title was only issued on December 22, 1992, and the land had previously been owned by one Teofilo Pilapil.^[51]

Petitioner stresses that the Municipal Trial Court in Cities lack jurisdiction as the case

was filed by respondent more than one (1) year after the discovery of the alleged encroachment. Respondent discovered the manhole, telephone lines, and cables sometime in May 2003; thus, when it filed the complaint in October 2004, the one-year prescriptive period had already lapsed.^[52]

As to the reckoning period, petitioner reiterates that respondent's argument is illogical and renders the summary nature of ejectment meaningless, since a plaintiff can simply make a demand to vacate long after the discovery to circumvent the one-year time bar.^[53]

Moreover, petitioner again insists on the lower courts' misinterpretation of the cited cases and on its power of expropriation and rights as a builder in good faith.^[54]

The issues for this Court's resolution are the following:

First, whether or not the issue on lack of jurisdiction was deemed waived by petitioner Philippine Long Distance Telephone Company;

Second, whether or not the Municipal Trial Court in Cities has jurisdiction over the case, subsumed under which are the issues of: (1) whether or not the element of prior physical possession is present; and (2) whether the one-year prescriptive period of an action for forcible entry through stealth should be reckoned from the time the unlawful entry is discovered or from the last demand to vacate; and

Finally, whether or not petitioner may exercise its right of eminent domain and its right as a builder in good faith.

I

Respondent calls attention to petitioner's failure to raise the issue of jurisdiction over the subject matter in its Answer. Such failure, respondent claims, bars petitioner from questioning the Municipal Trial Court in Cities' jurisdiction on appeal.

This Court disagrees.

Courts are vested with jurisdiction over the remedy and jurisdiction over the subject matter. These types of jurisdiction may not be waived by the parties.

Jurisdiction over the remedy is different from jurisdiction over the subject matter. Jurisdiction over the remedy pertains to the court's competence over the process. This should not be confused with the relief, that which the party filing the case wants the court to declare, and which addresses the breach of the right or obligation.

The source of jurisdiction is important. Generally, jurisdiction over the remedy is provided by the Rules of Court. Thus, it is mainly a procedural matter which this Court—the authority that promulgates the Rules of Court—may change *ad hoc*, or clarify the application or interpretation of, in proper cases.^[55]

Meanwhile, the source of jurisdiction over the subject matter is generally conferred by law.^[56] This is why the doctrine is that this type of jurisdiction cannot be waived