

FIRST DIVISION

[G.R. No. 202189, April 25, 2017]

RODANTE F. GUYAMIN, LUCINIA F. GUYAMIN, AND EILEEN G. GATARIN, PETITIONERS, VS. JACINTO G. FLORES AND MAXIMO G. FLORES, REPRESENTED BY RAMON G. FLORES, RESPONDENTS.

D E C I S I O N

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*^[1] seeks to set aside the May 23, 2012 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CV. No. 92924 which affirmed the October 21, 2008 Decision^[3] of the Regional Trial Court (RTC) of Trece Martires City, Branch 23 in Civil Case No. TMCV-0040-06.

Factual Antecedents

In 2006, respondents Jacinto G. Flores and Maximo G. Flores, represented by their brother and attorney-in-fact Ramon G. Flores, filed a Complaint^[4] for Recovery of Possession against petitioners Rodante F. Guyamin (Rodante), Lucinia F. Guyamin (Lucinia), and Eileen G. Gatari (Eileen). The case was docketed as Civil Case No. TMCV-0040-06 and assigned to Branch 23 of the RTC of Trece Martires City.

Respondents alleged in their Complaint that they are the registered owners of a 984-square meter lot in *Barangay* Santiago, General Trias, Cavite covered by Transfer Certificate of Title No. T-308589 (the subject property);^[5] that petitioners are their relatives who for many years have been occupying the subject property by mere tolerance of respondents' predecessors and parents, the original owners of the same; that petitioners have been "reminded x x x to vacate the premises"^[6] because respondents have decided to sell the property; that petitioners failed to vacate; that respondents made several attempts to settle the matter through conciliation before the *Punong Barangay* but the same proved futile; that the *Punong Barangay* was constrained to issue a Certification To File Action;^[7] that respondents were thus compelled to file the Complaint and incur legal expenses, for which they pray that petitioners be ordered to vacate the subject property and pay P20,000.00 attorney's fees, P5,000.00 litigation expenses, and costs.

On September 25, 2006, summons and a copy of the Complaint were served upon petitioners through Eileen, who nonetheless refused to sign and acknowledge receipt thereof. This fact was noted in the court process server's Return of Summons dated September 26, 2006.^[8]

On January 9, 2007, respondents filed a Motion to Declare Defendants in Default, arguing that despite service of summons on September 25, 2006, petitioners failed to file their answer.

On May 28, 2007, petitioners filed their Answer with Motion to Dismiss.

On June 5, 2007, respondents filed their Reply to Answer, arguing that petitioners' Answer was belatedly filed, which is why they filed a motion to declare petitioners in default; and for this reason, they prayed that the Answer be stricken off the record.

On December 26, 2007, the RTC issued an Order decreeing as follows:

WHEREFORE, for failure to file their responsive answer within the reglementary period of fifteen (15) days, defendants are hereby declared in default. The pleadings filed by the defendant on May 30, 2007 is [sic] hereby denied.^[9]

Petitioners moved to reconsider, but the trial court was unmoved. It proceeded to receive respondents' evidence *ex parte*.

Ruling of the Regional Trial Court

On October 21, 2008, the RTC issued a Decision^[10] declaring as follows:

The plaintiffs as represented by their attorney-in-fact, Ramon G. Flores when presented in Court reiterated the allegations in the complaint and presented in evidence the Transfer Certificate of Title No. T-308589 in the names of Jacinto Flores and Maximo Flores (Exhibit "B"); the tax declaration (Exhibit "C") of the property; and the Certification (Exhibit "F") issued by Brgy. Justice Lito R. Sarte of Barangay Santiago, Bayan ng Heneral Trias, Cavite.

x x x x

In the case at bar, by a preponderance of evidence, plaintiffs have proven their case.

On September 26, 2006 the Return of Summons by the process server of this Court, Rozanno L. Morabe, as certified, stated, to wit:

This is to certify that on September 25, 2006 the undersigned cause [sic] the service of Summons together with a copy of the complaint upon defendants x x x thru EILEEN GATARIN, one of the defendants, who received a copy of the Summons for all the defendants who refused to sign and acknowledge receipt of said summons.

This served as a proof of receipt by the defendants of the copy of the complaint upon them. However defendants filed their answer with motion to dismiss way beyond the reglementary period on May 28, 2007 which prompted this Court to deny their motion. Defendants, if indeed having a good defense, could have been vigilant in this case instead of resorting to delays in the prosecution thereof.

WHEREFORE, judgment is rendered in favor of the plaintiffs as against the defendants herein and hereby orders, to wit:

1) Ordering the defendants and their respective families and or any other persons claiming rights under them, to vacate subject parcel of land and deliver the same peacefully to the possession of the plaintiffs;

2) Ordering the defendants to pay the plaintiffs the amount of P10,000.00 as reasonable attorney's fees, P5,000.00 as litigation expenses, plus the costs of suit.

SO ORDERED.^[11]

Ruling of the Court of Appeals

Petitioners filed an appeal before the CA which was docketed as CA G.R. CV. No. 92924. On May 23, 2012, the CA rendered the assailed Decision containing the following pronouncement:

Aggrieved, the Guyamins filed this instant appeal raising the following assignment of errors:

1. The trial court erred in not dismissing the complaint on the ground of lack of cause of action or prematurity;
2. The trial court erred in declaring the defendants in default and proceeding to receive plaintiffs' evidence ex-parte; and
3. The trial court erred and abused its discretion when it rendered its Decision favorable to the plaintiffs prior or without the filing of the plaintiffs' Formal Offer of Evidence.

x x x x

The Guyamins argue that the case should have been dismissed for failure of the Floreses to give notice or demand to vacate and to observe conciliation process in the barangay. They further argued that based on the averments in the complaint the Floreses merely reminded them to vacate but no actual demand to vacate has been given.

In this jurisdiction, there are three kinds of actions for the recovery of possession of real property and one is *accion publiciana* or the plenary action for the recovery of the real right of possession, which should be brought in the proper Regional Trial Court when the dispossession has lasted for more than one year.

After a review of the averments of the complaint, we find that the *court-a-quo* did not err in assuming jurisdiction over the case. From the allegations of the complaint it appears that the land subject of the case was originally owned by the Floreses' grandmother, Damasa Vda. De Guzman and was later acquired by their mother, Julia Guyamin who in turn transferred the ownership of the property to them. Based on the attached Transfer Certificate of Title, the property was transferred to the Floreses on May 10, 1991. The Floreses averred in the complaint that since the time the ownership of the property was transferred to them,

they have been reminding the Guyamins to vacate the premises because they wanted to sell the property.

While it is true that the complaint uses the word "reminding" instead of the word "demanding", it still does not mean that no demand to vacate was made by the Floreses. It is clear on the records that the Floreses filed a complaint for the Guyamins to vacate the premises before Office of the Barangay Chairman of Barangay Santiago, General Trias, Cavite. On the subject line of the complaint the following words are clearly written: "Ukol sa: Pagpapaalis sa bahay na nakatirik sa lupa na hindi naman kanila" which is clearly a demand to vacate.

On March 11, 2006 the Office of the Barangay Chairman issued a certificate to file action because the parties were unable to settle their dispute. Contrary to the argument of the Guyamins, the records also show that there was an attempt to settle the issues between the parties before the Office of the Barangay Chairman.

Anent the second ground raised by the Guyamins, records will also show that Return of Summons was filed by the Process Server, Rozanno L. Morabe on September 25, 2006 certifying that a copy of the summons was received on September 26, 2006 by one of the defendants Eileen Gatarin, who received a copy for all the defendants.^[12] It was only on May 28, 2007 that the Guyamins filed an Answer with a Motion to Dismiss, or more than 8 months after receiving the summons, hence the *court-a-quo* did not commit any error in declaring the Guyamins in default.

As to the last error raised, it is settled that for evidence to be considered, the same must be formally offered. However, in *People v. Napat-a*, the Supreme Court relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided the following requirements are present, viz: first, the same must have been duly identified by testimony duly recorded and, second, the same must have been incorporated in the records of the case.

In the instant case, we find that the requirements have been satisfied. The exhibits were presented and marked during the *ex-parte* hearing of August 7, 2008. Therefore, notwithstanding the fact that exhibits "A" to "F" were not formally offered prior to the rendition of the Decision in Civil Case No. TMCV-0040-06 by the *court-a-quo*, the trial court judge committed no error when he admitted and considered them in the resolution of the case.

WHEREFORE, in view of the foregoing, the Decision dated October 21, 2008 of the Regional Trial Court of Trece Martires City in Civil Case No. TMCV-0040-06 is AFFIRMED.

SO ORDERED.^[13] (Citations omitted)

Hence, the present Petition