

## SECOND DIVISION

**[ G.R. No. 220389, December 06, 2017 ]**

**TERESITA BUGAYONG-SANTIAGO, EARL EUGENE SANTIAGO,  
EDWARD SANTIAGO, AND EDGARDO SANTIAGO, JR.,  
PETITIONERS, V. TEOFILO BUGAYONG, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

This is a petition for review on certiorari<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated 29 September 2014 and the Resolution<sup>[3]</sup> dated 6 August 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 116322. The CA affirmed the Decision<sup>[4]</sup> dated 11 December 2009 of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 45 (RTC), which set aside the decision of the 7<sup>th</sup> Municipal Circuit Trial Court of Asingan-San Manuel, Asingan, Pangasinan (MCTC) and dismissed petitioners' complaint for unlawful detainer.

#### **The Facts**

On 24 November 1993, petitioner Teresita Bugayong-Santiago (Teresita) and her husband Edgardo Santiago (Edgardo), through a Deed of Absolute Sale, bought a 169 square meter commercial land with a building structure located in Poblacion, Asingan, Pangasinan. The land was originally owned by Teresita's parents, the late spouses Francisco Bugayong and Segundina Ventura-Bugayong, and covered by Transfer Certificate of Title (TCT) No. 37637, which was issued to the late spouses on 9 November 1961.

On 23 May 2007, Edgardo died. He was survived by Teresita and their children, petitioners Earl Eugene, Edward, and Edgardo, Jr. The children inherited one-half of the land.

In 2008, petitioners sent a letter dated 15 February 2008 to respondent Teofilo Bugayong (Teofilo), Teresita's brother, demanding him to vacate the subject property within 15 days from receipt of the letter and to pay the amount of P3,000 monthly. Respondent received the letter on 20 February 2008 but refused to vacate the property.

Thus, petitioners filed a Complaint<sup>[5]</sup> for Unlawful Detainer dated 15 March 2008 with the MCTC. Petitioners alleged that since 2002, they have been tolerating the stay and occupation of Teofilo over the two-third (2/3) eastern portion of the land and a part of the commercial building without paying any lease rental. Petitioners added that Teofilo had been harassing Teresita whenever she went to Asingan, Pangasinan and that on 3 June 2006, Teofilo slapped and pulled her hair which caused some injuries. Thus, she filed a criminal case for physical injuries against him. Also, before they executed the complaint, petitioners exerted serious efforts to settle the case amicably but to no avail.

In his Answer with Counterclaim, Teofilo alleged that his parents, Francisco Bugayong and Segundina Ventura-Bugayong, were the absolute and registered owners of the subject parcel of land covered by TCT No. 37637 where a commercial building had been erected. Prior to their death, the late spouses executed a Deed of Quitclaim dated 21 December 1995 in favor of all their six children, namely: Antonio, Teofilo, Erlinda, Teresita, Francisco, Jr., and Estrellita Bugayong-Cachola (Cachola). Teofilo stated that when he was about to register the quitclaim with the Register of Deeds after paying the necessary taxes, petitioners caused the annotation on the title of the Deed of Absolute Sale by way of Adverse Claim on 4 March 2004. Teofilo also claimed that during the lifetime of his parents, they reported the Owner's Duplicate Copy of TCT No. 37637 as lost and they executed an Affidavit of Loss on 16 November 1995 and had it annotated at the back of the title. Consequently, a Second Owner's Duplicate Copy was granted by the RTC in lieu of the lost title. Teofilo maintained that while the petitioners claimed that they purchased the subject property in 1993, he had been paying the realty taxes of the subject property for the benefit of the estate of his deceased parents and all the heirs, including the northwestern portion of the building occupied by Cachola, the sister of both Teofilo and Teresita. Further, Teofilo contended that he had been in actual possession and enjoyment of the subject property long before the execution of the assailed Deed of Absolute Sale between his parents and Teresita and Edgardo.

In a Decision<sup>[6]</sup> dated 29 September 2008, the MCTC ordered Teofilo to vacate the property. The MCTC resolved the question of ownership in order to resolve the issue of possession. The MCTC reasoned that the Deed of Absolute Sale dated 24 November 1993 should be given effect and validity since it was executed before the Deed of Quitclaim was executed on 21 December 1995 and had been annotated at the back of TCT No. 37637. Also, the MCTC considered Teofilo's occupation over the subject property as mere tolerance and demanded that Teofilo vacate the property. The dispositive portion of the Decision states:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering defendant or anyone acting in his behalf to vacate the two third (2/3) eastern portion of the subject premises;
2. Ordering defendant to surrender possession of the subject premises to the plaintiff[s];
3. Ordering the dismissal of the counter-claim;
4. Ordering defendant to pay reasonable lease rental of the subject premises the amount of P3,000 monthly starting from February 20, 2008 until he vacates and surrender[s] possession to the plaintiffs and to pay P15,000.00 as attorney's fees and to pay the costs of this suit.

SO ORDERED.<sup>[7]</sup>

Teofilo filed an appeal<sup>[8]</sup> with the RTC. Teofilo averred that petitioners had failed to establish a cause of action for unlawful detainer against him such that the MCTC had no jurisdiction over the complaint.

In a Decision<sup>[9]</sup> dated 11 December 2009, the RTC reversed the decision of the MCTC. The RTC stated that tolerance must be present right from the start of possession to bring the action within the ambit of unlawful detainer. In this case,

there was forcible entry at the beginning and tolerance thereafter; thus, there can be no basis for the action for unlawful detainer.

The RTC declared that the remedy of the petitioners was either *accion publiciana* or *accion reivindicatoria*. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the decision appealed from is set aside. Accordingly, the complaint is dismissed.

SO ORDERED.<sup>[10]</sup>

Petitioners filed a motion for reconsideration. The RTC, in an Order dated 7 September 2010, denied the motion.

On 29 October 2010, petitioners filed a petition for review<sup>[11]</sup> with the CA. In a Decision dated 29 September 2014, the CA denied the petition for lack of merit

Petitioners then filed a motion for reconsideration dated 24 October 2014 which the CA denied in a Resolution<sup>[12]</sup> dated 6 August 2015.

Hence, the instant petition.

### **The Issue**

Whether or not the CA erred in affirming the decision of the RTC which dismissed the unlawful detainer case against respondent.

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

The petition lacks merit.

Petitioners contend that from the start, they have tolerated and have been tolerating the stay and occupation of respondent over two-third (2/3) portion of the commercial lot and the building situated thereon. Petitioners explain that when they bought the land, it has been agreed upon between Teresita and her husband Edgardo, that Teresita's parents would stay on the land until their death. Teresita's mother passed away on 11 February 1997 and her father on 26 November 1999. Afterwards, Teresita allowed her sister, Cachola, to occupy the subject property located in Asingan, Pangasinan since petitioners have been residing in San Fernando, Pampanga since 1974. Petitioners allege that sometime in 2002, Teofilo, in the presence of Cachola, just entered the property without their knowledge and consent and had been occupying two-third (2/3) portion of the property without paying any lease rental. Since petitioners wanted to take possession of the subject property, they sent a demand letter for Teofilo to vacate the premises.

Respondent, on the other hand, maintains that he had been in actual possession and enjoyment of the subject property, being one of the forced heirs of the registered owners, his parents. Respondent contends that the MCTC did not acquire jurisdiction over the complaint since the complaint failed to aver facts constitutive of forcible entry or unlawful detainer - how entry was affected or how and when dispossession started. Thus, the complaint or case filed should not have been for unlawful detainer with the MCTC but one for *accion publiciana* or *accion reivindicatoria* in the proper RTC.