

FIRST DIVISION

[G.R. No. 186375, June 17, 2015]

ELENA ALCEDO, PETITIONER, VS. SPS. JESUS SAGUDANG AND MARLENE PADUA-SAGUDANG, RESPONDENTS.

D E C I S I O N

PEREZ, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to reverse the Decision^[1] dated 18 February 2008 and Resolution^[2] dated 27 January 2009 of the Court of Appeals in CA-G.R. SP No. 97556.

The factual antecedents follow.

On 2 December 2005, petitioner Elena Alcedo filed with the Municipal Circuit Trial Court (MCTC) of Pozorrubio, Pangasinan a Complaint for Ejectment with Temporary Restraining Order (TRO) and Writ of Preliminary Injunction against respondent Spouses Jesus Sagudang and Marlene-Padua-Sagudang docketed as Civil Case No. S-922.

In the Complaint, petitioner alleged that she purchased a parcel of land in *Barangay Inmalog, Sison, Pangasinan* from siblings Pedro and Victorino Bacdang (Victorino), covered by Tax Declaration Nos. 021 00457 and 021 00458 in the latter's names; that she acquired one-half of the property from Pedro by virtue of Deed of Absolute Sale dated 22 November 1995 while she acquired the other half from Victorino through an Affidavit of Self Adjudication of Estate of Deceased Person with Deed of Absolute Sale on 4 June 2003;^[3] that prior to the sale, the subject property was mortgaged to petitioner sometime in the 1980s and since then, she has been in possession over the subject land without interference or claim from other persons; that sometime in July 2005, respondents started to claim that a portion of the subject land belongs to them; that several conferences were conducted between the parties at the office of the Department of Environment and Natural Resources (DENR); that on 10 November 2005, respondents and their relatives and friends entered the premises owned by petitioner through force, violence and intimidation by taking and put up a fence thereon without authority and legal right; that the malicious acts of respondents and their cohorts unlawfully deprived petitioner of her rights over the subject property and its fruits and income.^[4]

Petitioner prayed for a Temporary Restraining Order (TRO) to stop respondents from uprooting plants and cutting trees on the land and to issue a writ of preliminary injunction to revert immediately to petitioner the possession of the land. She also prayed that after notice and hearing, the court issue an order for respondents to peacefully vacate the subject premises and to deliver possession thereof the petitioner; to pay solidarily the amount of P50,000.00 as moral damages and P30,000.00 as exemplary damages; to pay solidarily a reasonable rent of P5,000.00

for using the subject land from 10 November 2005 up to the time they will leave the subject premises and to return and deliver the income or proceeds earned by them from the fruits that have been harvested by them from the land; and to pay attorney's fee.^[5]

Respondents claimed that they own the adjacent property declared in their names under Tax Declaration No. 021 00539 and denominated as Cadastral Lot No. 1027-C while petitioner purportedly owns Cadastral Lot 1027-A and 1027-B. Respondents acquired the land from Spouses Godrey Cawis and Annie Cawis on 31 December 2001. They took possession of the land and constructed a house thereon in 2002, introduced other improvements and paid realty taxes thereon. Sometime in 2005, Mrs. Galvin Backeng and Mr. Florentino Velasco disturbed the peaceful and actual possession of respondents by entering the premises of their property prompting respondents to construct a fence around their property. Thereafter, petitioner filed a case for forcible entry against them.^[6]

On 19 May 2006, the MCTC rendered a Decision^[7] in favor of petitioner. The MCTC ruled that respondents forcibly took possession of the property possessed by petitioner. It took into consideration the affidavit of the former owner of Cadastral Lot 1027-C that the fence erected by respondents encroached on the property of petitioner. The MCTC ordered respondents to remove the fence and surrender possession of the property. It further ordered respondents to pay petitioner the sum of P20,000.00 as attorney's fees.

Respondents appealed to the Regional Trial Court (RTC). On 4 December 2006, the RTC Branch 45 of Urdaneta City, Pangasinan, affirmed the MCTC's ruling, the dispositive portion of which states:

WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING, this [c]ourt finds no reversible error in the Decision of the [c]ourt a quo and hereby AFFIRMS the same in toto.^[8]

Respondents elevated the case to the Court of Appeals which reversed the RTC's decision and dismissed the complaint. The Court of Appeals held that the MCTC does not have jurisdiction over the case which is essentially a boundary dispute, thus jurisdiction pertains to the RTC. The Court of Appeals disposed, thus:

WHEREFORE, premises considered, both lower court's decision are hereby **SET ASIDE** and a new one is entered DISMISSING the Complaint for Forcible Entry docketed as Civil Case No. S-922 before the Municipal Circuit Trial Court of Pozorrubio, Pangasinan.^[9]

Petitioner's motion for reconsideration was denied by the Court of Appeals in a Resolution^[10] dated 27 January 2009. Undaunted, petitioner filed the instant petition assigning the following errors allegedly committed by the Court of Appeals:

1. THE HONORABLE COURT OF APPEALS ERRED IN ORDERING THE DISMISSAL OF THE COMPLAINT FOR FORCIBLE ENTRY; and
2. THE HONORABLE COURT OF APPEALS ERRED IN DECLARING THAT THE PRESENT CASE IS A BOUNDARY DISPUTE WHICH SHOULD

EITHER BE AN ACCION PUBLICIANA OR AN ACCION REINVINDICATORIA.^[11]

Petitioner principally argues that the complaint is in the nature of an action for forcible entry over which the MCTC had jurisdiction.

Well-settled is the rule that the jurisdiction of the Court, as well as the nature of the action, are determined by the allegations in the complaint.^[12] Section 1, Rule 70^[13] of the Rules of Court requires that in actions for forcible entry, the plaintiff is allegedly deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth and that the action is filed any time within one year from the time of such unlawful deprivation of possession. This requirement implies that in such cases, the possession of the land by the defendant is unlawful from the beginning as he acquires possession thereof by unlawful means. The plaintiff must allege and prove that he was in prior physical possession of the property in litigation until he was deprived thereof by the defendant. If the alleged dispossession did not occur by any of the means stated in section 1, Rule 70 either by force, intimidation, threat, strategy or stealth, the proper recourse is to file a plenary action to recover possession with the RTC.^[14]

We reproduce the pertinent allegations in the complaint before the MCTC:

9. That x x x the said property was sold to the [petitioner] in 1995 and 2003 as shown on the unnotarized Deed of Absolute Sale dated November 22, 1995 and unnotarized Affidavit of Self Adjudication of Estate with Deed of Absolute Sale dated June 4, 2003 x x x;

x x x x

12. That since 1980s, the plaintiff has been in possession over the subject land without any interference or claim by other person when she started to accept the mortgage unto her. She has been so far in actual possession of the land dispute for more than twenty five (25) years. But, tacking her possession with her predecessors, the possession is already more than fifty (50) years. In fact, the [petitioner] has already planted several trees on the land in question aside from the trees planted by her predecessors. She has also planted pineapple, cabbage and banana trees, which are about to be harvested in December, 2005;

13. That sometime in July, 2005, the [respondents] had started to claim that a portion of the land purchased by the [petitioner] from Bacdangs belongs to them as they do have a bigger land area declared for them for taxation purposes. Hence, in July, August and October, 2005, several confrontations and conferences were conducted between the [petitioner] and [respondents] at the office of the Department of Environment and Natural Resources (DENR), Barangay Captain of Brgy. Inmalog, Sison, Pangasinan and Municipal Council of Sison, Pangasinan to talk about this land dispute;

14. That without resolving the land dispute, the [respondents] together with their relatives and other companions [had] entered the premises of the land bought by the [petitioner] on **November 10, 2005** through