

## SECOND DIVISION

[ G.R. No. 178635, April 11, 2011 ]

**SERVILLANO E. ABAD, PETITIONER, VS. OSCAR C. FARRALES  
AND DAISY C. FARRALES-VILLAMAYOR, RESPONDENTS.**

### DECISION

**ABAD, J.:**

This case is about a) the need, when establishing the jurisdiction of the court over an action for forcible entry, for plaintiff to allege in his complaint prior physical possession of the property and b) the need for plaintiff to prove as well the fact of such prior physical possession.

#### The Facts and the Case

Petitioner Servillano Abad claims that on August 6, 2002 he and his wife, Dr. Estrella E. Gavilan-Abad, bought a 428-square meter registered property on 7 Administration St., GSIS Village, Project 8, Quezon City,<sup>[1]</sup> from Teresita, Rommel, and Dennis Farrales. The latter were the wife and sons, respectively, of the late brother of respondents Oscar Farrales (Oscar) and Daisy Farrales-Villamayor (Daisy).<sup>[2]</sup> Teresita operated a boarding house on the property.<sup>[3]</sup>

Because the Abads did not consider running the boarding house themselves, they agreed to lease the property back to Teresita for P30,000.00 a month so she could continue with her business.<sup>[4]</sup> But, although the lease had a good start, Teresita suddenly abandoned the boarding house,<sup>[5]</sup> forcing the Abads to take over by engaging the services of Bencio Duran, Teresita's helper, to oversee the boarding house business.<sup>[6]</sup>

On December 7, 2002, Dr. Abad went to the boarding house to have certain damage to some toilets repaired. While she was attending to the matter, she also hired house painters to give the boarding house fresh coat of paint.<sup>[7]</sup> On December 8, 2002 Oscar and Daisy came, accompanied by two men, and forcibly took possession of the boarding house. Frightened, the painters called the Abads who immediately sought police help. The Abads were later appeased, however, when they learned that the intruders left the place.

Two days later or on December 10, 2002, the day the Abads left for abroad, Oscar and Daisy forcibly entered and took possession of the property once again. Because of this, on March 10, 2003 petitioner Servillano Abad (Abad) filed a complaint<sup>[8]</sup> for forcible entry against the two before the Metropolitan Trial Court (MeTC) of Quezon City.<sup>[9]</sup>

Oscar and Daisy vehemently denied that they forcibly seized the place. They claimed

ownership of it by inheritance. They also claimed that they had been in possession of the same from the time of their birth.<sup>[10]</sup> That Oscar had been residing on the property since 1967 as attested to by a March 31, 2003 certification issued by Barangay Bahay Toro.<sup>[11]</sup>

While the defendants admitted that Daisy herself ceased to reside on the property as early as 1986, they pointed out that she did not effectively give up her possession. Oscar and Daisy further claimed that when their parents were still alive, the latter mortgaged the property to a bank to secure a loan. After their mother passed away, they decided to lease portions of the property to help pay the loan. Daisy managed the operation of the boarding house.<sup>[12]</sup> To bolster their claim, Oscar and Daisy presented copies of rental receipts<sup>[13]</sup> going back from 2001 to 2003. They would not have been able to lease the rooms unless they were in possession.<sup>[14]</sup>

Further, Oscar and Daisy asked the MeTC to dismiss the action on the ground of failure of Abad to show that he and his wife enjoyed prior physical possession of the property, an essential requisite in forcible entry cases. Abad's allegation that he and his wife immediately leased the property after they bought it was proof that they were never in possession of it for any length of time.<sup>[15]</sup>

On March 30, 2005 the MeTC rendered a decision<sup>[16]</sup> in favor of Abad, stating that Oscar and Daisy could not acquire ownership of the property since it was registered. And, as owner, Abad was entitled to possession.

Disagreeing with the MeTC, Oscar and Daisy went up to the Regional Trial Court (RTC) of Quezon City. In a decision<sup>17</sup> dated October 26, 2005, the RTC affirmed the decision of the MeTC in its totality. It held that Oscar and Daisy could no longer impugn the jurisdiction of the MeTC over the action since they raised the ground of Abad's failure to allege prior physical possession in his complaint for the first time on appeal. Besides, said the RTC, since the complaint alleged that Servillano owned the property, it may be presumed that he also had prior possession of it. No evidence to the contrary having been presented, the presumption stood.

Abad moved for immediate execution<sup>[18]</sup> and partial reconsideration<sup>[19]</sup> of the decision with respect to his claim for attorney's fees, exemplary damages, and reasonable rents. For their part, Oscar and Daisy sought reconsideration<sup>[20]</sup> of the RTC decision and moved to strike out Abad's motions.<sup>[21]</sup> On December 1, 2005 the RTC issued an Order,<sup>[22]</sup> granting Abad's motion for immediate execution that would place him in possession and ordering the immediate release to him of the P390,000.00 supersedeas bond that Oscar and Daisy posted in the case. Further, the RTC partially reconsidered its decision by awarding attorney's fees of P20,000.00 to Abad. Oscar and Daisy moved for the reconsideration of this order.<sup>[23]</sup> In an Order dated December 9, 2005, the RTC denied the motion for reconsideration filed by Oscar and Daisy of its October 26, 2005 Decision on the ground of non-compliance with Section 4, Rule 15 of the Rules of Court.

Undaunted, Oscar and Daisy filed a petition for review<sup>[24]</sup> with the Court of Appeals (CA). On March 8, 2007 the CA rendered a decision,<sup>[25]</sup> annulling the decisions and

orders of both the MeTC and the RTC on the ground of lack of jurisdiction. The CA pointed out that Abad merely alleged in his complaint that he leased the property to Teresita after he and his wife bought the same and that, thereafter, Oscar and Daisy forcibly entered the same. Since Abad did not make the jurisdictional averment of prior physical possession, the MeTC did not acquire jurisdiction over his action. Further, Oscar and Daisy ably proved actual possession from 1967 through the barangay certification. Since the MeTC had no jurisdiction over the case, all the proceedings in the case were void.<sup>[26]</sup>

Abad moved for reconsideration but the CA denied the same,<sup>[27]</sup> hence, in the present petition for review.<sup>[28]</sup>

### **Questions Presented**

The case presents the following questions:

1. Whether or not Abad sufficiently *alleged* in his complaint the jurisdictional fact of prior physical possession of the disputed property to vest the MeTC with jurisdiction over his action; and
2. In the affirmative, whether or not Abad sufficiently *proved* that he enjoyed prior physical possession of the property in question.

### **The Court's Rulings**

Two allegations are indispensable in actions for forcible entry to enable first level courts to acquire jurisdiction over them: first, that the plaintiff had prior physical possession of the property; and, second, that the defendant deprived him of such possession by means of force, intimidation, threats, strategy, or stealth.<sup>[29]</sup>

There is no question that Abad made an allegation in his complaint that Oscar and Daisy forcibly entered the subject property. The only issue is with respect to his allegation, citing such property as one "*of which they have complete physical and material possession of the same until deprived thereof.*" Abad argues that this substantially alleges plaintiffs *prior physical possession* of the property before the dispossession, sufficient to confer on the MeTC jurisdiction over the action. The Court agrees. The plaintiff in a forcible entry suit is not required to use in his allegations the exact terminology employed by the rules. It is enough that the facts set up in the complaint show that dispossession took place under the required conditions.<sup>[30]</sup>

It is of course not enough that the allegations of the complaint make out a case for forcible entry. The plaintiff must also be able to prove his allegations. He has to prove that he had prior physical possession<sup>[31]</sup> for this gives him the security that entitles him to remain in the property until a person with a better right lawfully ejects him.<sup>[32]</sup>

Here, evidently, the Abads did not take physical possession of the property after buying the same since they immediately rented it to Teresita who had already been using the property as a boarding house. Abad claims that their renting it to Teresita