

FIRST DIVISION

[G.R. No. 172217, September 18, 2009]

**SPOUSES LYDIA FLORES-CRUZ AND REYNALDO I. CRUZ,
PETITIONERS, VS. SPOUSES LEONARDO AND ILUMINADA GOLI-
CRUZ, SPOUSES RICO AND FELIZA DE LA CRUZ, SPOUSES BOY
AND LANI DE LA CRUZ, ZENAIDA A. JACINTO AND ROGELIO DE
LOS SANTOS, RESPONDENTS.**

R E S O L U T I O N

CORONA, J.:

This is a petition for review on certiorari^[1] of the August 23, 2005 decision^[2] and April 5, 2006 resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 81099.

On December 15, 1999,^[4] petitioner spouses Lydia Flores-Cruz and Reynaldo I. Cruz purchased a 5,209-sq. m. lot situated in Pulong Yantok, Angat, Bulacan^[5] from Lydia's siblings, namely, Teresita, Ramon and Daniel (all surnamed Flores). Their father, Estanislao Flores, used to own the land as an inheritance from his parents Gregorio Flores and Ana Mangahas. Estanislao died in 1995. Estanislao and, later, petitioners paid the realty taxes on the land although neither of them occupied it. Petitioners sold portions thereof to third parties sometime in September 2000.^[6]

After the death of Estanislao, petitioners found out that respondent spouses Leonardo and Iluminada Goli-Cruz *et al.* were occupying a section of the land. Initially, petitioner Lydia talked to respondents and offered to sell them the portions they were occupying but the talks failed as they could not agree on the price. On March 2, 2001, petitioners' lawyer sent respondents letters asking them to leave. These demands, however, were ignored. Efforts at *barangay* conciliation also failed.^[7]

Respondents countered that their possession of the land ranged from 10 to 20 years. According to respondents, the property was alienable public land.^[8] Prior to petitioners' demand, they had no knowledge of petitioners' and their predecessor's ownership of the land. They took steps to legitimize their claim and paid the realty tax on their respective areas for the taxable year 2002. Subsequently, however, the tax declarations issued to them were cancelled by the Provincial Assessors Office and re-issued to petitioners.^[9]

On August 6, 2001, petitioners filed a complaint for recovery of possession of the land in the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 82.^[10] Respondents filed a motion to dismiss claiming, among others, that the RTC had no jurisdiction over the case as it should have been filed in the Municipal Trial Court (MTC) since it was a summary action for ejectment under Rule 70 of the Rules of Court. The RTC denied the motion in an order dated November 9, 2001.^[11]

After trial, the RTC rendered a decision dated October 3, 2003 in favor of petitioners and ordered respondents to vacate the land, and pay attorney's fees and costs of suit.^[12]

On appeal by respondents to the CA, the latter, in a decision dated August 23, 2005, ruled that the RTC had no jurisdiction over the action for recovery of possession because petitioners had been dispossessed of the property for less than a year. It held that the complaint was one for unlawful detainer which should have been filed in the MTC. Thus, it ruled that the RTC decision was null and void. Reconsideration was denied on April 5, 2006.

Hence, this petition.

The issue for our resolution is whether the RTC had jurisdiction over this case.

The petition has no merit.

It is axiomatic that the nature of the action - on which depends the question of whether a suit is within the jurisdiction of the court - is determined solely by the allegations in the complaint^[13] and the law at the time the action was commenced.^[14] Only facts alleged in the complaint can be the basis for determining the nature of the action and the court's competence to take cognizance of it. ^[15] One cannot advert to anything not set forth in the complaint, such as evidence adduced at the trial, to determine the nature of the action thereby initiated.^[16]

Petitioners' complaint contained the following allegations:

xxx xxx xxx

3. That, [petitioners] are owners of a piece of land known as Lot 30-part, Cad. 349 located at Pulong Yantok, Angat, Bulacan as shown by a copy of Tax Declaration No. 99-01010-01141 made [an] integral [part] hereof as Annex "A";

4. That, said Lot No. 30-part was acquired through [purchase] on December 15, 1999, as shown by [a] Deed of Absolute Sale of Unsubdivided Land made [an] integral [part] hereof as Annex "B, B-1 & B-2";

5. That, when [petitioners] inspected subject property, they found it to be occupied by at least five (5) households under the names of herein [respondents], who, when asked about their right to stay within the premises replied that they were allowed to live thereat by the deceased former owner;

6. That, [petitioners] informed the [respondents] that as far as they are concerned, the latter's occupancy was not communicated to them so it follows that they do not have any right to remain within subject piece of land;

7. That, [respondents] seem to be unimpressed and made no move to leave the premises or to come to terms with the [petitioners] so much so that [the latter] asked their lawyer to write demand letters to each and everyone of the [respondents] as shown by the demand letters dated March 2, 2001 made integral part hereof as Annex "C, C-1, C-2, C-3, & C-4";

8. That, there is no existing agreement or any document that illustrate whatever permission, if any were given, that the [respondents] presented to [petitioners] in order to legitimize the claim;

9. That, it is clear that [respondents] occupy portions of subject property either by stealth, stratagem, force or any unlawful manner which are just bases for ejectment;

xxx xxx xxx ^[17]

According to the CA, considering that petitioners claimed that respondents were possessors of the property by mere tolerance only and the complaint had been initiated less than a year from the demand to vacate, the proper remedy was an action for unlawful detainer which should have been filed in the MTC.

We agree.

The necessary allegations in a complaint for ejectment are set forth in Section 1, Rule 70 of the Rules of Court.^[18] Petitioners alleged that the former owner (Estanislao, their predecessor) allowed respondents to live on the land. They also stated that they purchased the property on December 15, 1999 and then found respondents occupying the property. Yet they demanded that respondents vacate only on March 2, 2001. It can be gleaned from their allegations that they had in fact permitted or tolerated respondents' occupancy.

Based on the allegations in petitioners' complaint, it is apparent that such is a complaint for unlawful detainer based on possession by tolerance of the owner.^[19] It is a settled rule that in order to justify such an action, the owner's permission or tolerance must be present at the beginning of the possession.^[20] Such jurisdictional facts are present here.

There is another reason why petitioners' complaint was not a proper action for recovery of possession cognizable by the RTC. It is no longer true that all cases of recovery of possession or *accion publiciana* lie with the RTC regardless of the value of the property.^[21]

When the case was filed in 2001, Congress had already approved Republic Act No. 7691^[22] which expanded the MTC's jurisdiction to include other actions involving title to or possession of real property (*accion publiciana* and *reinvindicatoria*)^[23] where the assessed value of the property does not exceed P20,000 (or P50,000, for actions filed in Metro Manila).^[24] Because of this amendment, the test of whether