

THIRD DIVISION

[G.R. NO. 153914, July 31, 2007]

**FELIPE REGIS, JR., PETITIONER, VS. THE HON. COURT OF
APPEALS AND AGAPITO GARCIA, RESPONDENTS.**

D E C I S I O N

NACHURA, J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court assailing the Decision^[1] of the Court of Appeals, dated September 13, 2001, and the Resolution^[2] dated February 15, 2002 in CA-G.R. SP No. 57003.

The Facts

The present petition stems from two separate ejectment cases involving the same parties, albeit at different times, in two different branches of the Municipal Trial Court in Cities (MTCC) of Iligan City.

The first, Civil Case No. II-236, entitled "*Felipe Regis and Genoviva Garcia v. Agapito Garcia*," was a complaint for forcible entry, filed with the MTCC, Branch II, Iligan City. The plaintiffs are the parents of the petitioner (Regis) herein. On March 13, 1989, the MTCC rendered a Decision^[3] dismissing the case. The pertinent portions of the decision read:

[T]he Court, finds that the defendant [Garcia] is a possessor and owner in fee simple of a residential lot along the former shorelines of Cabili Avenue, Iligan City. That [the] defendant [Garcia] possessed a parcel of land of about 200 square meters since 1947 (sic). x x x Sometime in 1973, the government[,], upon seeing the area to have been developed and reclaimed from the sea, it surveyed the area and opened it for disposition and alienation under the Miscellaneous Sales System. Defendant [Garcia] filed his Miscellaneous Sales Application for the entire 200 sq. meters he reclaimed [which] was eventually awarded to him. That sometime in the year 1970[,], a certain Delvo had filed an adverse claim over the same property in issue but, the Regional Trial Court and the Court of Appeals ruled in favor of the defendant [Garcia] herein over said parcel wherein the claim of herein plaintiff [Regis] is part.

x x x x

Further, defendant's [Garcia] possession of this land in issue started before 1950 while the plaintiff enter[ed] the scene later, having purchased the rights of the defendant's [Garcia] father over the portion, defendant's [Garcia] father [had] occupied and claimed [as his] own.

Finally, the Court, opined that the issue here could be settled by determining the true boundaries of each lot claimed by party-litigants. But, even if this Court would do so yet, the action of this Court, would [be] an effort in futility[,] the matter of ownership on the entire portion of land claimed by defendant [Garcia] having been passed over (sic) by the Regional Trial Court and lately was awarded by the government to defendant [Garcia] under Miscellaneous Sales Application.

WHEREFORE, premises considered, the Court hereby opine[s] that plaintiff [Regis] had failed to prove any cause of action against defendant [Garcia], hence, the Court hereby order[s] the Dismissal of the case for [having] no cause of action.

SO ORDERED.

No appeal was taken from this decision.

The second case, entitled "*Agapito Garcia v. Felipe Regis, Junior and the Members of His Family*," docketed as Civil Case No. 1-429 in the MTCC, Branch 01, Iligan City, was for ejectment, filed by Agapito Garcia (Garcia), respondent herein. In its Decision^[4] dated February 11, 1999, the MTCC dismissed the complaint for failure of Garcia to prove his prior physical possession of the property in question. The lower court went on to say that the evidence presented by Garcia proved only his right of possession, not his prior physical possession of the contested property which is the core issue in forcible entry cases.

Garcia appealed the February 11, 1999 Decision of the MTCC to Regional Trial Court (RTC), Branch 03, Iligan City, docketed as Civil Case No. 4607. On September 2, 1999, the RTC issued a Decision^[5] reversing the decision of the trial court and ordering Regis and the members of his family to remove their structures and to vacate the property under dispute. The RTC took heed of the earlier Decision of the MTCC in Civil Case No. II-236 that had become final and executory, and declared:

On the findings of the lower court, it would appear that the herein plaintiff-appellant [Garcia] took possession, ahead of anybody else, including the defendant-appellee [Regis] of the 200 square meters, wherein the disputed area of 40 square meters is merely a portion.

Even granting *arguendo* that the appellee [Regis] was in possession of the property before the alleged forcible entry was filed in 1989, the appellant [Garcia] was already there long before the intrusion of the 40 square meters which is a portion of the whole 200 square meters, earlier applied for by the appellant [Garcia].

x x x x

In the case at bar, and in addition to the findings of the lower court in Civil Case No. II-236, appellant [Garcia] took possession of the property in 1946 (Exhibit "A") and introduced improvements thereon. To strengthen his hold on the property he filed a Sales Application (Exhibit "D") in 1973 and declared it for taxation purposes (Exhibit "C") in 1973.

On the other hand, the documentary evidence shown by the appellee [Regis], i.e., Declaration of Real Property (Exhibits "3-B" and "3-C") were secured only very recently or in October 1993 and June 1986[,] respectively. The two (2) tax receipts were issued only on January 7, 1998.

Evidently the appellant [Garcia] has indeed occupied the property way ahead of the parents of the appellee [Regis] and much earlier than the appellee [Regis] himself.

In sum, the Court believes that plaintiff-appellant [Garcia] is the rightful possessor of the lot in dispute and that defendant-appellee [Regis] being an intruder and deforciant should be ordered to restore the lot to the plaintiff-appellant [Garcia].

Aggrieved, Regis filed an appeal with the Court of Appeals (CA) docketed as CA-G.R. SP No. 57003, praying for the reinstatement *in toto* of the MTCC Decision dated February 11, 1999 in Civil Case No. 1-429. On September 13, 2001, the CA rendered a Decision,^[6] the *fallo* of which reads:

WHEREFORE, the Decision of the Regional Trial Court of Iligan City, Branch 3 in Civil Case No. 4607, reversing the judgment in Civil Case No 1-236 (sic) rendered by the Municipal Trial Court in Cities, Branch 1, Iligan City, and ordering the petitioner [Regis] to remove the structures and to vacate the property in dispute is hereby **AFFIRMED** *in toto*.

A motion for reconsideration was filed by Regis but the same was denied by the CA in a Resolution^[7] dated February 15, 2002.

The Issues to be Resolved

On May 27, 2002, Regis filed a Petition^[8] for *certiorari* before this Court contending, as follows:

I

THE COURT OF APPEALS HAS NO JURISDICTION IN DECIDING CA-G.R. SP NO. 57003, AN APPEALED FORCIBLE ENTRY CASE (ILIGAN CITY MTCC 1-429) AS AN *ACCION PUBLICIANA*, AND SAID COURT ALSO VIOLATED PETITIONER'S CONSTITUTIONAL RIGHT (Pages 6-11) TO

- (a) Due Process (Pages 8 to 9) and,
- (b) To a day in Court (Pages 10-11)

II

[THE CA ERRED] IN HOLDING THAT PRIVATE RESPONDENT GARCIA WAS IN "PRIOR POSSESSION" OF THE 40 SQUARE METER LOT IN QUESTION SINCE HIS FATHER, DEMETRIO GARCIA OCCUPIED IT IN 1946 AND PETITIONER FELIPE REGIS JR. AND HIS PARENTS TOOK POSSESSION ONLY IN 1962 (Pages 11 to 19)^[9]