

## SECOND DIVISION

[ G.R. NO. 142882, May 02, 2006 ]

**SPS. RICARDO AND LYDIA LLOBRERA, SPS. BENJAMIN AND ESTHER LLOBRERA, SPS. MIKE AND RESIDA MALA, SPS. OTOR AND DOLINANG BAGONTE, SPS. EDUARDO AND DAMIANA ICO, SPS. ANTONIO AND MERLY SOLOMON, SPS. ANSELMO AND VICKY SOLOMON, SPS. ALEX AND CARMELITA CALLEJO, SPS. DEMETRIO AND JOSEFINA FERRER, SPS. BENJAMIN AND ANITA MISLANG, SPS. DOMINGO AND FELICIDAD SANCHEZ, SPS. FERNANDO AND CARMELITA QUEBRAL, SPS. BERNARDO AND PRISCILLA MOLINA, PRISCILLA BAGA AND BELEN SEMBRANO, PETITIONERS, VS. JOSEFINA V. FERNANDEZ, RESPONDENT.**

### DECISION

**GARCIA, J.:**

Under consideration is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals (CA) in *CA-G.R. SP No. 48918*, to wit:

1. **Decision dated June 30, 1999,**<sup>[1]</sup> affirming the Decision dated August 7, 1998 of the Regional Trial Court (RTC) of Dagupan City, Branch 41, in Civil Case No. 98-02353-D which affirmed an earlier decision of the Municipal Trial Court in Cities (MTCC), Dagupan City, Branch 2, in Civil Case No. 10848, entitled "Josefina F. De Venecia Fernandez vs. Sps. Mariano and Lourdes Melecio, et al.," an action for ejectment.
2. **Resolution dated March 27, 2000,**<sup>[2]</sup> denying petitioners' motion for reconsideration.

Subject of the controversy is a 1,849 square-meter parcel of land, covered by Transfer Certificate of Title No. 9042. Respondent Josefina V. Fernandez, as one of the registered co-owners of the land, served a written demand letter upon petitioners Spouses Llobrera, *et al.*, to vacate the premises within fifteen (15) days from notice. Receipt of the demand letter notwithstanding, petitioners refused to vacate, necessitating the filing by the respondent of a formal complaint against them before the Barangay Captain of Barangay 11, Dagupan City. Upon failure of the parties to reach any settlement, the Barangay Captain issued the necessary certification to file action.

Respondent then filed a verified Complaint for ejectment and damages against the petitioners before the MTCC of Dagupan City, which complaint was raffled to Branch 2 thereof.

By way of defense, petitioners alleged in their Answer that they had been occupying the property in question beginning the year 1945 onwards, when their predecessors-in-interest, with the permission of Gualberto de Venecia, one of the other co-owners of said land, developed and occupied the same on condition that they will pay their monthly rental of P20.00 each. From then on, they have continuously paid their monthly rentals to Gualberto de Venecia or Rosita de Venecia or their representatives, such payments being duly acknowledged by receipts. Beginning sometime June 1996, however, the representative of Gualberto de Venecia refused to accept their rentals, prompting them to consign the same to *Banco San Juan*, which bank deposit they continued to maintain and update with their monthly rental payments.

In a decision dated February 18, 1998, the MTCC rendered judgment for the respondent as plaintiff, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

1. Ordering each of the defendants to vacate the portion of the land in question they respectively occupy and to restore the possession thereof to the plaintiff and her co-owners;
2. Ordering each of the defendants to pay to the plaintiff the amount of P300.00 per month from January 17, 1997 until they vacate the land in question as the reasonable compensation for the use and occupation of the premises;
3. Ordering the defendants to pay proportionately the amount of P10,000.00 as attorney's fee and P2,000.00 as litigation expenses, and to pay the cost of suit.

SO ORDERED.

On petitioners' appeal to the RTC of Dagupan City, Branch 41 thereof, in its decision of August 7, 1998, affirmed the foregoing judgment.

Therefrom, petitioners went to the CA whereat their recourse was docketed as *CA-G.R. SP. No. 48918*. As stated at the threshold hereof, the CA, in its Decision of June 30, 1999, affirmed that of the RTC. With the CA's denial of their motion for reconsideration, in its Resolution of March 27, 2000, petitioners are now before this Court with the following assignment of errors:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN:

- A. HOLDING THAT THE OCCUPATION AND POSSESSION OF THE PROPERTY IN QUESTION IS BY MERE TOLERANCE OF THE RESPONDENT.
- B. HOLDING THAT THE FAILURE OF THE PETITIONERS (DEFENDANTS) TO VACATE THE PREMISES AFTER DEMANDS WERE MADE UPON THEM IS A VALID GROUND FOR THEIR EJECTMENT.