

SECOND DIVISION

[G.R. NO. 153628, July 20, 2006]

ANACLETO SANTIAGO, PETITIONER, VS. PILAR DEVELOPMENT CORP. AND COURT OF APPEALS, RESPONDENTS.

DECISION

PUNO, J.:

This is a petition for *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse the decision of the Fourteenth Division of the Court of Appeals in CA-G.R. SP No. 49649.

First the facts.

On February 29, 1996, petitioner filed a complaint for forcible entry with the Municipal Trial Court of Dasmariñas, Cavite against private respondent.^[1] Petitioner alleged that: (1) he had been in prior physical possession of a parcel of land within Dasmariñas, Cavite since 1967, (2) that private respondent unlawfully ejected the petitioner by means of force, intimidation, strategy and stealth around February 1996, (3) he demanded that private respondent vacate the land it unlawfully occupied, but the latter refused to do so and threatened petitioner with physical harm, and (4) private respondent remains in illegal possession of the land and is depriving petitioner of the income of the land in the amount of P100,000.00 monthly.^[2]

Besides denying petitioner's allegations, private respondent alleged in its answer that: (1) petitioner has no cause of action, (2) the property subject of this action cannot be identified from the allegations of the complaint, (2) the properties of private respondent were acquired in good faith and for value from the registered owner thereof, (3) it entered possession of the subject property through peaceful and lawful means in the concept of an owner, without the employment of force, intimidation, threat, strategy or stealth against anyone in prior physical possession, (4) petitioner was never in prior physical possession of any of private respondent's properties, and (5) it had been in continuous and uninterrupted physical possession of its properties since their acquisition before February 1996.^[3]

On April 28, 1997, the Municipal Trial Court of Dasmariñas, Cavite rendered a decision in favor of petitioner, ordering private respondent: (1) to vacate the property and restore the possession thereof to petitioner, (2) to pay petitioner P100,000.00 monthly from the time of forcible entry to the time possession is restored to him, and (3) to pay petitioner P100,000.00 in attorney's fees as well as the costs of the suit.^[4] The Municipal Trial Court ruled that a preponderance of the evidence and applicable law dictated that possession be restored to petitioner as he was unlawfully and forcibly deprived thereof by private respondent in February

1996.^[5]

Private respondent appealed the decision to the Regional Trial Court of Imus, Cavite, and the case was raffled to Branch 20 thereof.^[6] On March 6, 1998, the Regional Trial Court affirmed the Municipal Trial Court's decision.^[7] The Regional Trial Court rejected private respondent's argument that its possession must be reckoned from the date the Transfer Certificate of Title (TCT) was issued in its name on January 31, 1974, or prior to the issuance of petitioner's TCT on October 13, 1993.^[8] The court cited jurisprudence stating that the only issue in a forcible entry action is the physical or material possession of the real property, or possession de facto, and that the proper remedy was *accion publiciana* or *accion reivindicatoria*.^[9]

On April 4, 1998, private respondent filed a Motion for Reconsideration and/or for New Trial, attaching affidavits of new witnesses and documents.^[10] On May 8, 1998, the Regional Trial Court granted private respondent's Motion for Reconsideration and dismissed petitioner's complaint.^[11] The Regional Trial Court held that: (1) petitioner's possession was based solely on his self-serving statement and those of his caretakers, (2) private respondent's possession of the property must be based on the TCT of its predecessor-in-interest, Antenor S. Virata, which was issued on March 12, 1958, and (3) the documents attached to private respondent's Motion for Reconsideration clearly substantiated its claim of prior possession.^[12] Petitioner filed a Motion for Reconsideration, but this was denied by the Regional Trial Court.^[13]

Undeterred, petitioner filed a petition for review under Rule 42 of the 1997 Rules of Civil Procedure with the Court of Appeals, assailing the trial court's decision.^[14] The petition was raffled to the Fourteenth Division of the Court of Appeals and docketed as CA-G.R. SP No. 49649.^[15]

In its decision on February 13, 2002, the Fourteenth Division of the Court of Appeals affirmed the Regional Trial Court's decision but deleted the award of attorney's fees in favor of private respondent.^[16] The Court of Appeals cited the joint affidavit of petitioner's witnesses which stated that they "have been Mr. Santiago's caretaker (*sic*) since November 1993 or after he acquired the same from the former owner. We have, however, been residing in the said land even before Mr. Santiago's acquisition of the same."^[17] Based on the foregoing facts, the appellate court held that petitioner failed to prove prior physical possession of the property *vis-à-vis* private respondent, but that the evidence did not justify a grant of attorney's fees in favor of the latter.^[18]

Petitioner filed a Motion for Reconsideration with the Court of Appeals on March 7, 2002,^[19] which was denied on May 16, 2002.^[20] Hence, the present petition for *certiorari*.

Petitioner contends that the Court of Appeals erred when: (1) it resolved the issue of prior possession by comparing the dates of the titles for the opposing parties, (2) it ruled for private respondent despite the testimony of his witnesses to the effect that he occupied the land personally and through his predecessor since 1967, and (3) it considered affidavits from private respondent which were presented only on