

FIRST DIVISION

[G.R. NO. 156581, September 30, 2005]

**VICTORIA R. ARAMBULO AND MIGUEL R. ARAMBULO III,
PETITIONERS, VS. EMERENCIANA R. GUNGAB, RESPONDENT.**

DECISION

QUISUMBING, J.:

For review on certiorari are the **Decision**^[1] dated August 30, 2002 of the Court of Appeals in CA-G.R. SP No. 65042, and its **Resolution**^[2] dated January 6, 2003, denying the motion for reconsideration. The Court of Appeals ordered petitioners to vacate the property subject of this case. The assailed Decision reversed and set aside the decision^[3] of the Regional Trial Court (RTC) which affirmed the joint decision^[4] of the Metropolitan Trial Court (MeTC) in two ejectment cases filed by respondent.

The facts are as follows:

Respondent Emerenciana R. Gungab is the registered owner of the contested parcel of land with improvements located in Quezon City and covered by Transfer Certificate of Title (TCT) No. 48330.

Petitioners are her sister Victoria R. Arambulo and nephew Miguel R. Arambulo III.

In separate letters^[5] dated October 19, 1998, respondent's counsel made a formal demand to petitioners to vacate the subject property on or before November 30, 1998. Petitioners refused.^[6]

Respondent sought the assistance of the barangay authorities. However, no amicable settlement was reached.

On February 2, 1999, respondent filed separate ejectment complaints against the petitioners before the MeTC of Quezon City, docketed as Civil Case Nos. 21855^[7] and 21856.^[8] Respondent alleged (1) that she owns the subject property; (2) that she tolerated petitioners' occupancy of certain portions of the subject property without rent; and (3) that despite her demands, they refused to vacate the subject property.

Petitioners denied respondent's claim of sole ownership of the subject property, asserting that petitioner Victoria Arambulo is a co-owner. They stated (1) that after Pedro Reyes, father of respondent Emerenciana and petitioner Victoria, died intestate in 1964, the property became part of the common properties of the Reyes clan; (2) that during her lifetime, Anastacia Reyes, wife of Pedro, allowed her daughter, petitioner Victoria, to use and occupy a certain portion of the subject

property; (3) that Victoria continuously used and occupied this portion for the last 20 years; (4) that Anastacia also allowed her grandson, petitioner Miguel, to use another portion of the subject property since 15 years ago; and (5) that their "use and possession" of these portions of the subject property "had been with the knowledge, consent and tolerance of all the other co-owners."^[9]

Aside from these ejectment cases, there is also a pending case for annulment of transfer and reconveyance of title before the RTC of Quezon City, which Victoria and three of her brothers filed against respondent and her husband.

In its joint decision,^[10] the MeTC of Quezon City, Branch 39, dismissed the ejectment cases for lack of cause of action. It ruled that summary procedure was not the proper procedure to resolve the cases. This ruling was based on its findings (1) that respondent's allegation of tolerance was preposterous since she failed to prove her proper acquisition of the subject property; and (2) that petitioners were entitled to retain possession of the subject property pursuant to Article 448^[11] of the Civil Code.

Respondent appealed, but the RTC of Quezon City, Branch 80, upheld the MeTC's judgment, *in toto*.^[12]

After her motion for reconsideration was denied, respondent filed a petition for review with the Court of Appeals, which it disposed of as follows:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the judgment appealed from must be, as it is hereby, REVERSED and SET ASIDE, and a new one entered ordering [petitioners] to vacate the portion of the subject property under their occupancy or possession, and to surrender the same forthwith to [respondent]. Without special pronouncement as to costs.

SO ORDERED.^[13]

In reversing the RTC, the Court of Appeals, observing that both parties raised the issue of ownership, provisionally resolved said issue to determine the issue of possession. It noted the failure of the MeTC and RTC to evaluate thoroughly the pieces of evidence submitted by the parties. The Court of Appeals held that respondent had a preferred right to possess the property because she had a genuine TCT. It rejected for being unsubstantiated, petitioners' claim that Victoria was a co-owner of the subject property.

The Court of Appeals denied petitioners' motion for reconsideration.

Hence, this petition. Petitioners allege that:

- (1) THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN RELYING SOLELY ON THE TRANSFER CERTIFICATE OF TITLE IN THE NAME OF RESPONDENT IN REVERSING THE DECISION RENDERED BY THE REGIONAL TRIAL COURT OF QUEZON CITY.
- (2) THE HONORABLE COURT OF APPEALS COMMITTED MANIFEST ERROR IN NOT CONSIDERING THE CLEAR FACT

THAT RESPONDENT WAS NEVER IN POSSESSION OF THE PROPERTY IN QUESTION AND ACCORDINGLY, THERE IS NO PHYSICAL POSSESSION TO RESTORE AND PROTECT.

- (3) THE HONORABLE COURT OF APPEALS IGNORED THE CLEAR FACT THAT THERE ARE EQUITABLE AND SPECIAL CIRCUMSTANCES OBTAINING BETWEEN THE PARTIES, PARTICULARLY THE INTENDED SALE OF THE SUBJECT PROPERTY BY THE RESPONDENT, THAT IS LIKELY TO CREATE CONFUSION, DISTURBANCE, AND EVEN BLOOD-SHED, WHICH WILL JUSTIFY THE SUSPENSION OF THE DECISION IN THE UNLAWFUL DETAINER CASE RENDERED BY THE HONORABLE COURT OF APPEALS TO AWAIT THE DISPOSITION IN THE PENDING CIVIL ACTION FOR ANNULMENT OF TRANSFER AND RECONVEYANCE OF TITLE OF THE SAME PROPERTY.
- (4) THE HONORABLE COURT OF APPEALS ERRED IN RENDERING THE APPEALED DECISION NOT IN ACCORD WITH LAW, EVIDENCE AND FACTS OF THE CASE.^[14]

The sole issue is, can respondent eject petitioners?

Petitioners contend that the Court of Appeals erred in reversing the RTC by relying only on respondent's TCT without considering that respondent was never in possession of the property. They insist that they were in possession of the subject property and so there was no physical possession to restore and protect. They pray that the Court suspend the Court of Appeals' Decision pending resolution of the case for annulment of transfer and reconveyance of title before the RTC.

Respondent counters that the Court of Appeals correctly reversed the decision of the RTC since the best proof of ownership of a piece of land is the certificate of title. She maintains that a pending civil action for annulment of transfer and reconveyance of title in a separate proceeding is of no moment in an ejectment case.

Pertinent to the instant case are the summary remedies of forcible entry and unlawful detainer under Section 1, Rule 70^[15] of the Rules of Court. They are distinguished from each other as follows:

. . . In forcible entry, one is deprived of physical possession of land or building by means of force, intimidation, threat, strategy, or stealth. In unlawful detainer, one unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. In forcible entry, the possession is illegal from the beginning and the basic inquiry centers on who has the prior possession *de facto*. In unlawful detainer, the possession was originally lawful but became unlawful by the expiration or termination of the right to possess, hence the issue of rightful possession is decisive for, in such action, the defendant is in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.