

SECOND DIVISION

[G.R. No. 142503, June 20, 2003]

**ROMUALDO C. PEREZ, PETITIONER, VS. APOLONIO CRUZ,
RESPONDENT.**

DECISION

QUISUMBING, J.:

This petition for review on certiorari seeks to reverse the decision^[1] of the Court of Appeals, dated August 21, 1995, in CA-G.R. SP No. 34979, as well as its resolution^[2] dated March 10, 2000, denying herein petitioner's Motion for Reconsideration. That decision had set aside the judgment of the Regional Trial Court of Malolos, Bulacan, Branch 10, in Civil Case No. 404-M-94, which ruled that the Municipal Trial Court of Hagonoy, Bulacan had no jurisdiction to hear and try the ejectment case docketed as Civil Case No. 979.

The factual backdrop of this case, as drawn from the records, are as follows:

The instant controversy arose from an ejectment case filed by herein respondent Apolonio Cruz before the MTC of Hagonoy in 1991. The complaint, docketed as Civil Case No. 979, alleged that Cruz is the owner of Residential Lot No. 5095 declared in his name as per Sworn Statement Index No. 14-0248-537, as required by Sec. 6 of P.D. No. 464, as amended by P.D. No. 1621.^[3] Cruz averred that he inherited this lot from his mother, Salvestia Crisostomo^[4] who, in turn, acquired the same from herein petitioner Romualdo Perez, through a "*Kasulatan ng Bilihang Patuluyan*."^[5] Cruz claimed that Perez requested his permission to build his house on a small portion of said property, as Perez had nowhere to erect his dwelling on. This request was granted, as they are close relatives.^[6]

Unknown to Cruz, however, Perez filed an application for issuance of title covering the subject land with the Land Management Section, Department of Environment and Natural Resources (DENR), Region III, San Fernando City, Pampanga. When Cruz learned of Perez's design, he immediately opposed the application. Accordingly, Cruz demanded that Perez remove his house from the land and vacate the same. When petitioner failed to heed the demand, respondent filed a complaint for unlawful detainer against him.^[7]

Perez denied Cruz's ownership of the property. He claimed to be owner of the lot in question, having inherited the same from his grandmother. He asserted that he had been in continuous possession for many years. To support his claim, Perez presented Tax Declaration No. 26682 and official receipts of tax payments. Perez submitted that the MTC had no jurisdiction over Civil Case No. 979, as the issue involved was one of ownership, not mere possession, of the land.

On February 12, 1992, the MTC dismissed Civil Case No. 979 on the ground of want of jurisdiction, holding that the main issue is one of ownership, not mere possession *de facto*.^[8] Cruz appealed said decision to the RTC of Malolos, Bulacan, Branch 13, as Civil Case No. 206-M-92.

Meanwhile, on March 31, 1992, the Regional Executive Director of the DENR, Region III, disapproved the survey of Lot No. 5075^[9], Cad. 304-D, submitted by Perez, thereby sustaining Cruz's opposition. Cruz was then directed to file the appropriate public land application for the land subject of the controversy.^[10]

On June 29, 1992, the RTC of Malolos, Branch 13, rendered its decision in Civil Case No. 206-M-92, reversing the MTC ruling, and ordering the remand of the records of Civil Case No. 979, for trial on the merits.^[11]

On remand, the MTC decided Civil Case No. 979 as follows:

IN VIEW OF THE FOREGOING, this Court finds for the plaintiff and against the defendant ordering the latter to:

1. remove his house and vacate the plaintiff's lot and deliver the possession thereof to the plaintiff;
2. pay plaintiff the amount of P100.00 a month as rental reckoned from the date of the filing of the complaint until the complete possession thereof is delivered to the plaintiff;
3. pay plaintiff the amount of P3,000.00 as attorney's fees; and
4. pay the costs of suit.

SO ORDERED.^[12]

Perez seasonably appealed the foregoing judgment to the RTC of Malolos, this time in Branch 10, docketed as Civil Case No. 404-M-94. On August 1, 1994, the RTC of Malolos, Branch 10, decided Civil Case No. 404-M-94 as follows:

WHEREFORE, judgment is hereby rendered REVERSING the appealed decision.

Pursuant to Section 10, Rule 41 of the Revised Rules of Court, let the entire record of this case be remanded to the court of origin.

SO ORDERED.^[13]

The RTC of Malolos, Branch 10, found that in Civil Case No. 979, the question of ownership was inextricably intertwined with the issue of possession. Since the issue of possession could not be resolved without first addressing the question of ownership, Civil Case No. 979 should have been dismissed, following case law.

Cruz then elevated the matter to the Court of Appeals by way of petition for review. Cruz theorized that inasmuch as the decision of the RTC of Malolos, Branch 13, holding that the issue in Civil Case No. 979 was not ownership but possession *de*

facto, had become final, it was error for Branch 10 to rule on said issue and reverse Branch 13's ruling.

On August 21, 1995, the appellate court disposed of the controversy as follows:

WHEREFORE, the instant petition for review is GRANTED and the decision of the public respondent dated August 1, 1994 is hereby REVERSED and SET ASIDE, and a new judgment is rendered AFFIRMING the decision of the Municipal Trial Court, dated January 24, 1994, in favor of plaintiff-petitioner. We make no pronouncement as to cost.

SO ORDERED.^[14]

The Court of Appeals held that the decision of the Regional Director of Lands disapproving the survey application of petitioner Perez and affirming the right of respondent Cruz to file the application for titling of the subject land rendered moot and academic the possessory action in the RTC. Said decision awarding the land to Cruz gave him a better right of possession over the disputed lot as against Perez, a non-awardee.^[15] It likewise held that the RTC of Malolos, Branch 10, erred in reversing the decision of the RTC of Malolos, Branch 13, because said decision already acquired finality. The Court of Appeals agreed with Branch 13 that the issue involved respondent's right of prior possession, and sustained the ruling of Branch 13 that as early as August 9, 1951, ^[16] the predecessor of respondent Cruz already had possession.

Perez then moved for reconsideration, but the appellate court denied it.

Hence, the instant appeal by certiorari, with petitioner Perez assigning the following errors:

I. THE HONORABLE COURT OF APPEALS ERRED IN NOT AFFIRMING OR IN REVERSING THE DECISION OF THE LOWER COURT THAT THIS CASE MUST BE DISMISSED FOR THE INFERIOR COURT HAS NO JURISDICTION DUE TO:

A. THE ISSUE OF OWNERSHIP WHICH IS CRUCIALLY INTERTWINED WITH POSSESSION; and

B. THE SUPPOSED TOLERANCE GIVEN BY RESPONDENT TO PETITIONER, WHICH IS NOT A LEGAL BASIS EITHER FOR FORCIBLE ENTRY OR UNLAWFUL DETAINER.

II. THE HONORABLE COURT OF APPEALS ERRED IN REVERSING OR SETTING ASIDE THE DECISION OF THE LOWER COURT FOR APPARENTLY, RESPONDENT HAS NO CAUSE OF ACTION FOR EJECTMENT AGAINST PETITIONER (DEFENDANT).^[17]

The principal question for resolution now concerns the jurisdiction of the MTC to hear and decide Civil Case No. 979 for ejectment.

Petitioner Perez contends that the alleged tolerance given by respondent to him in occupying the land does not give rise to a cause of action for unlawful detainer but