

FIRST DIVISION

[G.R. No. 126638, February 06, 2002]

**ROSANNA B. BARBA, PETITIONER, VS. COURT OF APPEALS,
TEODORA GARCIA, TESS GARCIA, SEVILLA GARCIA, RODRIGO
SALAZAR, AND ABRAHAM VELASQUEZ, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

This is an appeal from the decision of the Court of Appeals^[1] dated October 31, 1995 in CA G.R. No. 35624 which affirmed the dismissal by the Regional Trial Court of San Fernando, Pampanga^[2] of the ejectment case originally filed with the Municipal Circuit Trial Court of Mexico, Pampanga.

On September 27, 1993, herein petitioner Rosanna Barba filed before the Municipal Circuit Trial Court of Mexico, Pampanga, a complaint for ejectment against private respondents Teodora Garcia, Tess Garcia, Sevilla Garcia, Rodrigo Salazar, and Abraham Velasquez over a parcel of land and the five-door apartment building standing thereon, situated in Lagundi, Mexico, Pampanga and covered by Transfer Certificate of Title No. 353973-R.

Petitioner alleged that Teodora Garcia is petitioner's predecessor-in-interest, while Tess Garcia and Sevilla Garcia are her sisters. Rodrigo Salazar and Abraham Velasquez are supposedly staying in the premises by tolerance of Teodora Garcia. According to petitioner, private respondent Teodora Garcia obtained a loan from her in the amount of P36,000.00. To secure such loan, Teodora executed a mortgage over the subject property which was then covered by TCT No. 257427-R in her (Teodora's) name. Upon the latter's failure to pay when the debt was due, petitioner foreclosed on the property and the same was sold at public auction to her as highest bidder. When the property was not redeemed within one year, TCT No. 257427-R was cancelled and a new one, TCT No. 353973-R, was issued in petitioner's name on May 27, 1993. There after, on September 1, 1993, petitioner, through counsel, sent demand letters to private respondents asking them to vacate the subject premises within fifteen days from notice and charging them the amount of P450.00 a month as rental from April 1, 1993 and for every month thereafter until they finally vacate said premises. Private respondents' continuous refusal to surrender the property and to pay rents thus prompted petitioner to lodge a complaint for ejectment against them before the municipal circuit trial court.

In their answer, private respondents (except Teodora Garcia) averred that Sevilla Garcia is the owner of the subject property. Sometime in 1975, the spouses Afrocinia Mago and Delfin Velasquez sold the subject property to Alfonso Gutierrez and private respondent Sevilla Garcia. Gutierrez later on transferred his share to Sevilla Garcia executing a duly notarized deed of sale for the purpose. A corresponding transfer in the tax declaration was thereafter effected. Sevilla,

however, failed to register the deed of sale in her favor and to secure a transfer certificate of title in her name because in the same year she left for Cyprus to work. She entrusted the deed of sale as well as the Velasquez' certificate of title to her mother, Dolores Garcia, who resided in the subject property until her death in 1984. Upon the death of Dolores Garcia, Teodora Garcia was able to take possession of the certificate of title and the deed of sale. Teodora later on conspired with a certain Lourdes Mendoza and her husband who posed as the prior owners (the spouses Velasquez) and signed a fake deed of sale in her (Teodora) favor. By virtue of this falsified deed of sale, Teodora was able to effect a transfer of the certificate of title in her name, TCT No. 257427-R, over the subject property.

Private respondents further averred that upon Sevilla Garcia's return to the Philippines in April 1993, she discovered the fraudulent acts of Teodora and cohorts so she immediately filed a complaint for falsification of public document against Teodora Garcia, Lourdes Mendoza and her husband, Leticia Tapang and an unidentified person. This case was docketed as Criminal Case No. 7273 before Branch 44 of the Regional Trial Court of San Fernando, Pampanga. Sevilla also filed a civil action for annulment of deed, reconveyance and damages before the same branch of the Regional Trial Court docketed as Civil Case No. 10064.

On April 5, 1994, the Municipal Circuit Trial Court rendered a decision in petitioner's favor disposing as follows:

WHEREFORE, judgment is rendered in favor of the plaintiff and against the defendants (1) ordering the defendants and all persons claiming under them to vacate the premises and every unit of the apartment of plaintiff; (2) ordering each of the defendants to pay plaintiff the amount of Four Hundred Fifty Pesos (P450.00) a month representing the value of the premises occupied by each of them; (3) ordering defendants to pay the amount of P2,000.00 as attorney's fees and the costs of the suit.

SO ORDERED.^[3]

On appeal, the Regional Trial Court reversed the decision of the MCTC and declared the same as null and void for utter lack of jurisdiction.^[4] The RTC ruled that since the complaint filed before the MCTC failed to allege prior possession by the plaintiff (petitioner), which allegation confers jurisdiction, the case should have been dismissed *motu proprio*.

On October 31, 1995, the Court of Appeals, in its assailed decision^[5], affirmed the dismissal by the RTC of the ejectment case. However, the basis for such dismissal is different from that articulated by the RTC. The Court of Appeals held that since there exists a genuine issue of ownership which is inextricably linked to the issue of possession, the case should have been dismissed for lack of jurisdiction.

Petitioner, thus, found her way to this Court through the present petition for review, raising the following errors:

RESPONDENT COURT ERRED IN CONCLUDING THAT, BASED ON THE PLEADINGS, THERE WAS A GENUINE ISSUE OF OWNERSHIP WHICH IS INEXTRICABLY LINKED TO THE ISSUE OF POSSESSION AND WHICH ISSUE OF POSSESSION CANNOT BE RESOLVED WITHOUT FIRST

RESOLVING THE ISSUE OF OWNERSHIP FOR WHICH REASON RESPONDENT COURT DISMISSED THE PETITION FOR REVIEW WITHOUT DISTURBING THE DECISION OF THE REGIONAL TRIAL COURT REVERSING THE DECISION OF THE MUNICIPAL TRIAL COURT EJECTING THE PRESENT PRIVATE RESPONDENTS.

RESPONDENT COURT ERRED IN RULING THAT WHILE PETITIONER HAD HER TITLE (TCT NO. 353973-R), RESPONDENT SEVILLA GARCIA NEVER PARTED WITH THE OWNERSHIP AND POSSESSION OF THE SUBJECT PROPERTY.

RESPONDENT COURT ERRED IN DISREGARDING PETITIONER'S TITLE JUST BECAUSE PRIVATE RESPONDENT SEVILLA GARCIA SUPPOSEDLY IMPLICATED PETITIONER IN THE SCHEME TO ALLEGEDLY DEFRAUD RESPONDENT SEVILLA GARCIA DESPITE THE FACT THAT THE IMPLICATION AGAINST PETITIONER PROVED TO BE WILD, UNSUBSTANTIATED AND MALICIOUS.

RESPONDENT COURT ERRED IN DISMISSING THE PETITION AND IN NOT REVERSING THE DECISION OF THE REGIONAL TRIAL COURT OF SAN FERNANDO, PAMPANGA AND IN NOT REVIVING THE DECISION OF THE MUNICIPAL TRIAL COURT OF MEXICO, PAMPANGA EJECTING THE PRIVATE RESPONDENTS FROM THE PREMISES.

The petition was initially dismissed by this Court in a Resolution dated January 28, 1998, for petitioner's failure to file the memorandum within the period required by the Court. Accordingly, an entry of judgment was made on March 13, 1998. However, on July 5, 1999, the Court, in the interest of justice, resolved to set aside such resolution and entry of judgment and reinstated the petition.

Going into the merits, the Court resolves to grant the petition. Notwithstanding that the dismissals on appeal by the Regional Trial Court and the Court of Appeals were anchored on different grounds, such dismissals were, nonetheless, both improper.

The Regional Trial Court dismissed the ejectment case for lack of jurisdiction because the complaint failed to allege prior physical possession by the plaintiff (herein petitioner) and deprivation of such possession by the defendants (herein private respondents) through force, intimidation, strategy, or stealth. The RTC ruled that since it is the allegations in the complaint which confer jurisdiction, the absence of such allegation of prior physical possession behooved said court to desist from proceeding with the trial and to dismiss the case *motu proprio*.

We do not agree.

While it is true that in forcible entry and unlawful detainer cases, jurisdiction is determined by the nature of the action as pleaded in the complaint,^[6] a simple allegation that defendant is unlawfully withholding possession from plaintiff is sufficient. In an unlawful detainer case, the defendant's possession was originally lawful but ceased to be so by the expiration of his right to possess.^[7] Hence, the phrase "*unlawful withholding*" has been held to imply possession on the part of defendant, which was legal in the beginning, having no other source than a contract, express or implied, and which later expired as a right and is being withheld by

defendant.^[8]

In the complaint she filed before the Municipal Circuit Trial Court, herein petitioner alleged:

xxx

2. That plaintiff is the owner of a building and lot located at Lagundi, Mexico Pampanga, covered by Transfer Certificate of Title No. 353973-R xxx;
3. That the aforesaid building has five (5) doors each occupied by each of the defendant;
4. That the first-named defendant is plaintiff's predecessor-in-interest while the second and third defendants are sisters of the first-named defendant;
5. That the fourth and fifth defendants were tolerated by the first-named to stay on the premises.
6. That after title over the building and lot was issued in plaintiffs favor on or about May 27, 1993, plaintiff notified the defendants to vacate the premises but they refused and continue to refuse;
7. That plaintiff xxx in separate letters xxx told each of the defendants to vacate the premises within fifteen (15) days counted from receipt of the letter, xxx;
8. That, notwithstanding, receipt of the letters and the lapse of 15 days defendants refused and continue to refuse to vacate the premises;

xxx^[9]

These allegations sufficiently make out a case for unlawful detainer. Petitioner alleged ownership over the subject property as evidenced by a transfer certificate of title in her name; she contended that upon the issuance of a certificate of title in her name, she demanded, through counsel, that private respondents vacate the premises within fifteen days from notice; and notwithstanding such demand, private respondents refused to vacate the same. Although the phrase "*unlawfully withholding*" was not actually used by petitioner in her complaint, the allegations therein nonetheless amount to an unlawful withholding of the subject property by private respondents because they continuously refused to vacate the premises even after petitioner's counsel had already sent them notices to the effect.

The Regional Trial Court inferred from the complaint that petitioner's predecessor-in-interest, private respondent Teodora Garcia, never surrendered to petitioner her possession of the premises though the same had already been sold to the former; hence, there can be no case for unlawful detainer because there was no prior possession by petitioner.