

TWENTIETH DIVISION

[CA-G.R. SP NO. 08539, January 14, 2015]

**ANTONIO CESAR CORNICO, PETITIONER, VS. LUCINA TAN,
KAROLYN TAN, ROBIN ANDREW L. TAN (MINOR), AND JASMINE
KATE L. TAN (MINOR), RESPONDENTS.**

D E C I S I O N

QUIJANO-PADILLA, J.:

Before Us is a Petition for Review^[1] under Rule 42 of the Rules of Court assailing the Decision^[2] and Order^[3] of the Regional Trial Court, Eighth (8th) Judicial Region, Branch 29, City of Catbalogan, Province of Samar in Civil Case No. 8230-4-8-13 for Unlawful Detainer, dated November 6, 2013 and June 16, 2014, which reversed the Decision^[4] dated January 17, 2013 of the Municipal Trial Court in Cities, Catbalogan City, Samar in Civil Case No. Y6-L-26.

The Antecedents

In gist, petitioner Antonio Cesar Cornico alleged^[5] that he is the owner of a parcel of land which consists of 420 square meters more or less, situated in Catbalogan, Samar, as evidenced by Transfer Certificate of Title (TCT) No. T-7575.^[6]

The 78 square meter portion of the said parcel of land was occupied by the respondents without paying any rent and with the petitioner's tolerance. When petitioner asked the respondents to vacate the property as he intends to use it for himself, the latter unreasonably refused to do so. Hence, through counsel, petitioner was constrained to send a final demand letter to vacate to the respondents. The same remained unheeded and the controversy was elevated to the Lupon Tagapamayapa for mediation. However, no settlement was reached between the parties, thus petitioner filed a Complaint for Unlawful Detainer with the MTCC within one year from the date of the final demand to vacate.

On the other hand, respondent Allan Tan, who is now in this appeal represented by his heirs, namely: Karolyn Tan, Robin Andrew Tan and Jasmine Kate Tan, alleged^[7] that he was not occupying the disputed 78 square meter portion of land, as he was a lessee of the ground floor of Tingzon Building located at 192 Allen Avenue, Catbalogan, Samar. He stated that it was his mother, co-defendant Lucina Tan who owns the Fortune Hotel and Restaurant, which is occupying the disputed 78 square meter portion of land. Although, he admits that sometime in October 2006, he was requested by the petitioner to intercede for the payment of the said portion occupied by his mother, he however turned down such a request.

Respondent further denies the ownership of the petitioner of the 420 square meter property as the latter was a transferee in bad faith and that it was his mother who

has been in possession of the disputed 78 square meter portion of land.

Respondent also admitted having received the demand letter to vacate and in fact, he sent a letter-answer but it was returned to sender. Lastly, a confrontation also transpired between him and the petitioner before the Lupon Tagapamayapa.

Meanwhile, respondent Lucina Tan averred^[8] that petitioner was a transferee in bad faith. Milagros Misal the predecessor-in-interest of the petitioner acquired Miscellaneous Sales Patent No. 11333 through fraud and misrepresentation.

Respondent further asserts ownership over the disputed 78 square meter portion of land as it is where her Fortune Hotel and Restaurant is situated. Respondent explained that she brought the property through installment basis from the former owner Antonio Uy. Full payment of the said property was made on March 29, 1994.

Respondent Lucina Tan also admits that she refused to heed petitioner's final demand letter to vacate and to remove the structures she introduced thereon, because the truth of the matter is, she is the rightful owner of the disputed 78 square meter portion of land.

The Ruling of the Municipal Trial Court in Cities

In a Decision^[9] dated January 17, 2013, the Municipal Trial Court in Cities, Catbalogan City, Samar ruled in favor of the petitioner. It found all the elements of Unlawful Detainer present in the instant case. The decretal portion of the Decision reads:

“WHEREFORE, premises considered, judgment is hereby rendered in FAVOR of the plaintiff and AGAINST the defendants. Defendants ALLAN TAN and LUCINA TAN are hereby DIRECTED to vacate plaintiff's property and to peacefully surrender possession thereof to the plaintiff and to undertake, further, the following:

- 1). To remove and demolish the structures they erected at the subject property at their own expense, otherwise, the removal and demolition thereof shall be charged against him;
- 2). To pay the monthly rental of One Thousand Pesos (P1,000.00) of the property being occupied by defendants beginning November 2, 2006 and thereafter, until they actually vacate the premises and peacefully surrender possession thereof to the plaintiff or any of his authorized representative;
- 3). To pay Attorney's Fees in the amount of Twenty Thousand Pesos (P20,000.00); and
- 4). To pay the cost.

SO ORDERED.”^[10]

The Ruling of the Regional Trial Court

In a Decision^[11] dated November 6, 2013, the Regional Trial Court, Eighth (8th) Judicial Region, Branch 29, City of Catbalogan, Province of Samar reversed the ruling of the MTCC and dismissed the complaint for unlawful detainer. In reversing the finding of the Municipal Trial Court in Cities, the RTC postulated that the key jurisdictional facts such as how and when dispossession was made by the respondents were not indicated or alleged in the complaint. The dispositive portion of the assailed Decision states:

“PREMISES CONSIDERED, the appeal is given merit and the decision appealed from is set aside. Consequently, the complaint is dismissed with costs against the appellee, without prejudice to refiling of the case by way of an appropriate action for ownership and possession.

SO DECIDED.”^[12]

Unsatisfied with the decision, petitioner filed a Motion for Reconsideration,^[13] but the same was denied by the RTC in an Order^[14] dated June 16, 2014.

Undeterred and aggrieved, petitioner comes before Us raising the following issues:

I. The Honorable Regional Trial Court erred in not dismissing outright the appeal of the respondent [sic] as the Notice of Appeal was filed out of time.

II. The Honorable Regional Trial Court erred in ruling that tolerance and the reglamentary period of one year from final demand is lacking or was not demonstrated, and therefore, unlawful detainer case will not lie.

III. The Honorable Trial Court erred in appreciating the story of the Respondent [sic] (Appellants in the RTC case) that this is a boundary dispute and that the respondents (defendants in the court a quo) were occupying the portion of the property owned by the Petitioner since the year 1977.

IV. The Honorable Regional Trial Court erred in not deciding in favour of the title holder, the Petitioner, who has every right to possess the property and to eject and exclude the Respondents.

The Ruling of this Court

We find the petition meritorious.

At the crux of the present controversy is the determination of whether or not unlawful detainer is the appropriate remedy given the factual milieu of the case.

In an unlawful detainer case, the sole issue for resolution is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. Where the issue of ownership is raised by any of the parties, the courts may pass upon the same in order to determine who has the right to possess the property. The adjudication is, however, merely provisional and would not bar or prejudice an action between the same parties involving title to the property.^[15]

Anent thereto, (w)ell-settled is the rule that what determines the nature of the action, as well as the court which has jurisdiction over the case, are the allegations in the complaint. In ejectment cases, the complaint should embody such statement of facts as to bring the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without resort to parol evidence.^[16]

Unlawful detainer is an action to recover possession of real property from one who illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The possession by the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess.^[17] The proceeding is summary in nature, jurisdiction over which lies with the proper MTC or metropolitan trial court. The action must be brought up within one year from the date of last demand, and the issue in the case must be the right to physical possession.^[18]

A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

1. initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
2. eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
4. within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.^[19]

In the case at bench, We find petitioner's allegations in his Complaint^[20] sufficiently make out a case for unlawful detainer, which is needed to vest jurisdiction over the subject matter on the MTCC. Verily, from the complaint, petitioner alleged ownership over the property, as evidenced by TCT No. T-7575^[21] in his name, issued by the Registry of Deeds of Catbalogan Samar; that respondents are occupying the premises for some time already by virtue of petitioner's tolerance; and that petitioner, through counsel, sent a final and written demand letter^[22] to respondents dated November 2, 2006, demanding that they vacate the disputed portion of the property, but they failed and adamantly refused to do so. The complaint was filed^[23] on December 22, 2006, or within one year from the time the last demand to vacate was made on the respondents.

The Court also notes that in this case, petitioner narrated that respondents asked his and his mother's permission to stay on the disputed portion sometime in 1986. This allegation was also supported by the testimonies of one Romana Cuesco^[24] and Pedring Tan.^[25]

Needless to say, (f)irm is the rule that as long as these allegations demonstrate a cause of action for unlawful detainer, the court acquires jurisdiction over the subject matter.^[26]

Moreover, We cannot also upheld respondent Lucina Tan's allegation that she did not receive a copy of the demand letter to vacate as the Registry Return Receipt^[27] proves otherwise. It is clearly indicated therein that the letter was received on November 7, 2006.

In addition, respondents' argument that the MTCC had no jurisdiction over the case, because the complaint failed to state a cause of action as there was no showing how and when dispossession started, is misplaced.

The tenets laid down in ***Delos Reyes v. Odone***,^[28] proves instructive on this matter. In the said case, the Supreme Court discussed and explained the instance when jurisdictional facts must be alleged in a complaint for unlawful detainer, to wit:

In its June 20, 2006 decision,^[29] the RTC set aside the MTC's judgment and dismissed the complaint. The RTC held that the complaint failed to aver acts constitutive of forcible entry or unlawful detainer since it did not state how entry was effected or how and when the dispossession started. Hence, the remedy should either be *accion publiciana* or *accion reivindicatoria* in the proper RTC.

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The CA misapplied the ruling in Go30 that tolerance must be present right from the start of possession, which possession is sought to be recovered. The CA, in affirming the RTC, likewise erroneously applied the rule that jurisdictional facts must appear on the face of the complaint for ejectment, such that when the complaint fails to faithfully aver facts constitutive of unlawful detainer, as where it does not state when and how entry was effected, or how and when dispossession started, the remedy should either be *accion publiciana* or *accion reivindicatoria* in the proper RTC.

The requirement that the complaint should aver, as jurisdictional facts, when and how entry into the property was made by the defendants applies only when the issue is the timeliness of the filing of the complaint before the MTC, and not when the jurisdiction of the MTC is assailed because the case is one for *accion publiciana* cognizable by the RTC.^[31] This is because, in forcible entry cases, the prescriptive period is counted from the date of defendants' actual entry into the property; whereas, in unlawful detainer cases, it is counted from the date of the last demand to vacate. Hence, to determine whether the case was filed on time, there is a necessity to ascertain whether the complaint is one for forcible entry or for unlawful detainer; and since the main distinction between the two actions is when and how defendant entered the property, the determinative facts should be alleged in the complaint.^[32]