

SPECIAL SECOND DIVISION

[CA-G.R. SP NO. 135278, March 13, 2015]

**ROBERTO ZULUETA, PETITIONER, VS. WANDA VALDEZ
FERNANDEZ, RESPONDENT.**

DECISION

GONZALES-SISON, M., J.:

Before Us is a Petition for Review^[1] under Rule 42 of the 1997 Rules of Civil Procedure, assailing the Decision^[2] and Order^[3] dated December 27, 2013 and March 27, 2014, respectively, both issued by the Regional Trial Court, Branch 7, Baguio City, (court *a quo*) in Civil Case No. 7789-R, affirming the Decision^[4] of the Municipal Trial Court in Cities, ordering herein petitioner Roberto Zulueta (Roberto) and all persons claiming rights under him to vacate the subject premises and surrender the possession thereof to herein private respondent Wanda Valdez Fernandez (Wanda).

The facts as culled from the Records are as follows:

Deceased spouses Matias Valdez and Valentina Lasmarias-Valdez are the registered owners of a house and lot located at No. 5, Roman Ayson Street, Campo Filipino, Baguio City (subject property), which is one among several houses constructed on a parcel of land owned by Matias and Valentina. They are survived by their grandchildren Wanda, Conchita Valdez Estabillo (Conchita) and Rodolfo Valdez (Rodolfo).^[5]

Sometime in the 1960s, Valentina mortgaged the subject property. Twenty years thereafter, Wanda paid for the indebtedness of Valentina and re-acquired the subject property.^[6] From then on, the family regarded Wanda as the owner thereof. Wanda likewise spent for the major renovations, needed repairs and taxes of the subject property. In 1983, Wanda left for the United States of America. Meanwhile, she designated her niece Annaliza Valdez Estranero as the caretaker of the house for more than a decade. Every time Wanda came home for a vacation, she stayed at the subject property. Later on, Conchita asked Wanda to allow her daughter Alma Zulueta (Alma), along with Alma's husband Roberto and their children to stay at the subject property.^[7] Agreeing to Conchita's request, Wanda executed a Special Power of Attorney^[8] on March 12, 2002, constituting Roberto as her attorney-in-fact, thereby authorizing the latter to act as her personal caretaker of the subject property, fix and make improvements therein, act in other capacities on her behalf and upon her instructions, and serve as the guardian of her daughter Jennifer V. Anza, thereby allowing Roberto and his family to stay in the property.^[9]

However, on February 2, 2012, Wanda executed a Revocation of Special Power of Attorney,^[10] effectively putting an end to Roberto's authority and duty to oversee

the subject property. She personally served a copy of the Revocation of Special Power of Attorney to Roberto, but the latter refused to accept the same document and to vacate the subject property.^[11]

Due to Roberto's vehement refusal to vacate, Wanda brought the dispute before the *Lupong Tagapamayapa*. However, efforts towards a mediation failed,^[12] and thus, on April 23, 2012, Wanda instituted an action for Unlawful Detainer before the Municipal Trial Court in Cities (MTCC).^[13] The case was raffled to the MTCC, Baguio City, Benguet, Branch 2.

In his defense, Roberto averred that Wanda never possessed the subject property as she had been abroad since 1980, and that his stay at the subject property stemmed from the permission granted by his mother-in-law Conchita, who is a co-owner thereof.^[14] Moreover, Roberto sought the dismissal of the Complaint for Unlawful Detainer due to the failure of Wanda to send a prior Demand or Notice to Vacate, which is an essential jurisdictional requirement in ejectment cases.^[15]

On December 7, 2012, the MTCC rendered a Decision in favor of Wanda. The MTCC noted that a contract of agency was created between Wanda and Roberto, pursuant to the fact that the former designated the latter as the personal caretaker of the subject property, thereby allowing him to reside and make improvements thereon, as evidenced by the Special Power of Attorney.^[16] The contract of agency was thereafter terminated when Wanda served upon Roberto the Revocation of the Special Power of Attorney and executed a new Special Power of Attorney in favor of her brother Rodolfo Valdez. Moreover, the MTCC declared that a prior Demand against Roberto was unnecessary to make him a deforciant of the property, as the latter possessed the subject property by virtue of a contract of agency. Hence, Roberto's right to possess the property ended upon the revocation of the contract of agency.^[17] Likewise, the MTCC awarded the amount of Twenty Thousand Pesos (P20,000.00) as attorney's fees in favor of Wanda, as she was compelled to litigate due to the unjustified refusal of Roberto to vacate the subject property.^[18]

Aggrieved by the Decision rendered by the MTCC, Roberto filed a Memorandum of Appeal on May 22, 2013.^[19] However, on December 27, 2013, the court *a quo* rendered a Decision,^[20] dismissing the appeal and affirming the MTCC's ruling *in toto*.

Roberto filed a Motion for Reconsideration^[21] on January 29, 2014, which was denied by the court *a quo* in its Order^[22] dated March 27, 2014.

Undeterred, Roberto filed the instant Petition for Review,^[23] urging for the reversal of the assailed Decision,^[24] on the following grounds, *to wit*:

I. "THE DECISIONS OF THE MUNICIPAL AND REGIONAL TRIAL COURTS DATED DECEMBER 7, 2012 AND DECEMBER 27, 2013, RESPECTIVELY AND THE RTC'S ORDER DATED MARCH 27, 2014 HAS NO LEGAL AND FACTUAL BASIS. THE SAME BEING PATENTLY CONTRARY TO SETTLED LAWS AND JURISPRUDENCE.

II. THE HONORABLE REGIONAL TRIAL COURT BRANCH VII OF BAGUIO CITY COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RENDERING ITS DECISION DATED DECEMBER 27, 2013 AND ITS ORDER DATED MARCH 27, 2014.”^[25]

Upon a careful consideration of the arguments raised by both parties and a meticulous scrutiny of the laws and jurisprudence involved, **We find the instant Petition bereft of merit.**

Significantly, an action for unlawful detainer is instituted to recover possession of real property from one who unlawfully withholds possession thereof after the expiration or termination of his right, under any contract, express or implied.^[26] Consequently, where the plaintiff allows the defendant to use his property by tolerance without any contract, the defendant is necessarily bound by an implied promise that he will vacate on demand, failing which, an action for unlawful detainer will lie.^[27] Albeit initially legal, the defendant's possession thereafter becomes illegal due to the expiration or termination of his right to possess.^[28]

Accordingly, Section 1, Rule 70 of the Rules of Court^[29] states that the complaint for unlawful detainer must be filed within one (1) year from the unlawful deprivation or withholding of possession and must allege that: (i) the defendant originally had lawful possession of the property, either by virtue of a contract or by tolerance of the plaintiff; (ii) eventually, the defendant's possession of the property became illegal or unlawful upon notice by the plaintiff to the defendant of the expiration or the termination of the latter's right of possession; (iii) thereafter, the defendant nonetheless remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and (iv) the plaintiff instituted the complaint for ejectment within one (1) year from the unlawful deprivation or withholding of possession.^[30]

Prescinding from the foregoing, We find all the elements of an action for unlawful detainer present and sufficiently proven in the case at bar.

Records show that on March 12, 2002, Wanda executed a Special Power of Attorney, ^[31] appointing and constituting Roberto as her caretaker over the subject property, thereby allowing him and his family to reside thereat in pursuit of his functions as its custodian. Clearly, Roberto's right to occupy the subject property was by virtue of his designation as the caretaker thereof, and not in any other capacity. Consequently, Roberto was necessarily bound by an implied promise that he will vacate upon the termination of the relationship.

Likewise, the Records are replete with evidence establishing the agency relationship between Roberto and Wanda. Particularly, during the time that Roberto was constituted as the caretaker of the property, Wanda constantly sent money to Roberto for the payment of the utility bills and the upkeep of the house.^[32]

Moreover, Roberto is estopped from denying the existence of the Special Power of Attorney, as he himself used the same document to assert and prove his authority to stay in the subject property. Specifically, sometime in 2003, Roberto lodged a complaint for trespassing against Rodolfo Valdez before the barangay. To bolster his right over the subject property, Roberto presented the Special Power of Attorney

executed by Wanda in his favor. Thus, in deference to the authority granted by Wanda, Rodolfo conceded.^[33]

In fact, Joseph Sta. Maria (Joseph), then Barangay Captain of Campo Filipino^[34] corroborated Rodolfo's story. Joseph related that Roberto lodged a complaint against Rodolfo for oral defamation and trespass to dwelling before the barangay. Knowing that Roberto was new in the place, Joseph inquired as to the former's right to occupy the subject property. In response, Roberto presented the Special Power of Attorney executed by Wanda to prove that he had a right to reside in the said property.^[35] Indeed, Roberto's previous conduct of presenting the Special Power of Attorney bars him from denying his authority under the said document.

Struggling to assert his right over the subject property, Roberto claims in the alternative that he is rightfully occupying the same property upon the permission of his mother-in-law Conchita, who is a co-owner thereof. We are not persuaded. Roberto's claim is bare and unsubstantiated. Pitted against the evidence presented by Wanda, consisting of the Special Power of Attorney and the affidavits of her witnesses, Roberto's claims easily falter.

Undoubtedly, Roberto's right to occupy the subject property was derived from the Special Power of Attorney executed by Wanda. Accordingly, Roberto's right to possess the subject property automatically ended when Wanda personally served upon him the Revocation of the Special Power of Attorney.^[36] The revocation caused the annulment of all of the provisions in the Special Power of Attorney, among them were stipulations allowing Roberto and his family to reside at the subject property and designating Roberto as its caretaker.^[37] Correspondingly, Roberto's occupation of the subject property became illegal and unlawful.

Roberto further contends that the jurisdictional requirements for an action for unlawful detainer were not complied with, as no demand to vacate was served upon him.

Roberto's contention does not hold water.

Essentially, the Revocation precisely served the purpose of notifying Roberto that his right to stay at the subject property, as well as his designation as the caretaker thereof were withdrawn. Correlatively, he was divested of the right to occupy the subject property.

Furthermore, a scrutiny of Section 2, Rule 70 of the Rules of Court^[38] shows that a demand to vacate is a pre-requisite to an action for unlawful detainer, only if stipulated by the parties or if the action is based on either the failure to pay the rent due or the failure to comply with the conditions of the lease.^[39] Evidently, a prior demand to vacate was unnecessary in the instant case as the Special Power of Attorney did not require the service of a demand to vacate, and considering that Roberto's ejectment from the subject property was by virtue of the revocation of the Special Power of Attorney authorizing him to stay thereat, and not by virtue of a lease contract.

In fine, it cannot be overemphasized that Roberto's possession of the subject