

## **TWENTY-THIRD DIVISION**

**[ CA-G.R. SP NO. 05293, January 23, 2014 ]**

**SPOUSES FREDO (A.K.A. ALFREDO) AND FLORENDA EMAS,  
PETITIONERS, VS. LUCINDA P. DELMO AND LARRY P. DELMO.  
RESPONDENTS.**

### **D E C I S I O N**

**LLOREN, J.:**

This is a petition for review under Rule 42 of the Rules of Court assailing the Decision<sup>[1]</sup> dated 7 September 2012 of the Regional Trial Court (Branch 26) of Surallah, South Cotabato, dismissing petitioners' appeal for lack of merit. Likewise assailed is the Order<sup>[2]</sup> dated 10 December 2012 denying their motion for reconsideration.

The facts are as follows:

This case involves a parcel of unregistered land known as Lot No. 1348 located at the corner of National Highway and T. Pinpin Street, Libertad, Surallah, South Cotabato, with an area of 478.36 square meters. The property was the subject of an action for forcible entry before the Municipal Circuit Trial Court of Surallah-Lake Sebu, between Teofilo Non and Diosdado Non, Sr., as plaintiffs, against Lorenzo Delmo, Larry Delmo and Samuel Tacardon, as defendants. It was docketed as Civil Case No. 446(148). The MCTC of Surallah-Lake Sebu, ruled in favor of plaintiffs. Defendants appealed the Decision of the MCTC to the Regional Trial Court, 11<sup>th</sup> Judicial Region, Surallah, South Cotabato. On 23 July 1992, the RTC of Surallah, South Cotabato, set aside the aforesaid MCTC Decision and dismissed the complaint for forcible entry ruling that defendants had prior possession of the property which dates back to the Marcos regime.<sup>[3]</sup> Aggrieved, plaintiffs filed a petition for review before the Court of Appeals Manila. Unfortunately, they failed to file their petition on time. As a result, the Court of Appeals Manila dismissed the petition and the RTC Decision became final and executory on 30 October 1992.<sup>[4]</sup> Thus, the issue of who has prior possession between plaintiffs Teofilo Non and Diosdado Non, Sr.; and defendants Lorenzo Delmo, Larry Delmo and Samuel Tacardon was finally laid to rest. Since then, defendants remained in possession of the property which was actually occupied by Larry Delmo. Thereafter, Larry's mother, Lucinda, constructed a building on the property.<sup>[5]</sup>

Larry claims that since his family was no longer using the lot and building, he leased these properties to Fredo Emas for one (1) year from 1 January 1996 to 31 December 1997 at a monthly rental of P500.00, as shown by the Rental Agreement Contract dated 1 January 1996.<sup>[6]</sup> After the lease expired, they failed to renew the contract. Since then, Larry tolerated Fredo's possession of the property for 14 years until he discovered on 29 April 2010 that Fredo and his children demolished the building on the lot for them to build their houses on the property.<sup>[7]</sup>

Larry and her mother Lucinda immediately reported the incident to the police station and before the Lupon Tagapamayapa of Libertad, Surallah, South Cotabato, for conciliation, but to no avail.<sup>[8]</sup> On 22 June 2010, the Office of the Lupon Tagapamayapa issued a Certification to File Action to respondents.<sup>[9]</sup>

On 18 August 2010, Larry, through his counsel, sent a demand letter to Fredo to vacate the disputed property within 10 days from notice<sup>[10]</sup> which the latter ignored claiming that the lot is actually owned by Teofilo Non, who authorized him to stay on the property.<sup>[11]</sup>

Consequently, Larry and Lucinda filed a complaint for unlawful detainer against spouses Fredo and Florenda Emas before the Municipal

Circuit Trial Court of Surallah-Lake Sebu, 11<sup>th</sup> Judicial Region, South Cotabato, docketed as Civil Case No. 341-S.

In their *Answer*, spouses Fredo and Florenda Emas denied the allegations in the complaint and claimed that Fredo did not sign a contract of lease with Larry. They also denied that Lucinda had a building on the property.<sup>[12]</sup>

In their Position Paper, however, Fredo admitted that he demolished the building per instruction of Teofilo Non after the latter appointed him as caretaker of the disputed property.<sup>[13]</sup>

After considering the arguments of both parties, the MCTC of Surallah-Lake Sebu, Surallah, South Cotabato, ruled in favor of Larry and Lucinda Delmo, ordering spouses Fredo and Florenda Emas to vacate the property.<sup>[14]</sup>

Fredo appealed to the Regional Trial Court (Branch 26) of Surallah, South Cotabato, which dismissed the same and upheld the Decision of the MCTC of Surallah-Lake Sebu, Surallah, South Cotabato. The highlights of the Decision read:

Assessing the facts revealed in this case, the court believes that the plaintiffs have a cause of action against the defendant. The defendant having entered into a Rental Agreement Contract with the plaintiff, in effect, recognized the latters' (sic) ownership over the subject lot and the building existing thereon. The denial by defendant of his signature appearing in the said document cannot be believed as he himself claimed ownership over the land as shown by the Tax Declaration in his name dated December 8, 2010. xxx

Considering there is a Rental Contract binding the plaintiffs and the defendant, the denial by the defendant of his signature appearing therein being not challenged by him by presenting an expert witness before the court *a quo*, this court therefore has to uphold the signature appearing in said documents is his. xxx

Spouses Fredo and Florenda Emas now come to Us ascribing a litany of errors which We consider as immaterial and improper in an unlawful detainer case because the only issue to be resolved in this summary proceeding is whether the spouses are unlawfully withholding possession of Lot No. 1348.