

## **EIGHTH DIVISION**

**[ CA-G.R. SP NO. 126977, March 27, 2014 ]**

**ROLLY D. MARQUEZ, PETITIONER, VS. MELECIA S. DAGUIO,  
RESPONDENT.**

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

**REYES, JR., J.C., J.:**

Before the Court is a petition for review filed under Rule 42 of the Rules of Court assailing the Decision dated May 25, 2009 and Order dated August 14, 2012 of the Regional Trial Court (RTC) Branch 29 of Bayombong, Nueva Vizcaya in Civil Case No. 6871 which affirmed the Decision dated August 7, 2007 of the Municipal Trial Court (MTC) of Solano, Nueva Vizcaya, and denied petitioner's motion for reconsideration, respectively.

Rolly D. Marquez (Marquez) filed a Complaint against Melecia S. Daguios (Daguios), for forcible entry before the MTC of Solano, Nueva Vizcaya, docketed as Civil Case No. 3609. According to Marquez, he owns, by operation of law, a 2,889 square meter land in San Luis, Solano which he cultivated for many years until July 2001 when Daguios and her laborers forcibly entered the same. (Rollo, p. 13).

Instead of filing an Answer, Daguios filed a Motion for a Bill of Particulars stating that the phrase "owner by operation of law" which Marquez mentioned in his Complaint is not alleged with sufficient definiteness or particularity to enable her to prepare her responsive pleading. (Rollo, p. 33).

Marquez for his part filed a Motion to Render Judgment pointing out that a Motion for a Bill of Particulars is a prohibited pleading under the Rules on Summary Procedure. (Rollo, pp. 37-41).

On August 25, 2003 the MTC denied Daguios's motion and ordered her to file an Answer. The MTC likewise ordered Marquez to submit proof of his ownership over the subject land. Neither party complied with the order. (Rollo, p. 44).

With the failure of the parties to amicably settle the case, the MTC ordered the parties to submit their respective position papers. Only Marquez submitted his. (Rollo, p. 57).

On August 7, 2007, the MTC rendered its Decision, disposing:

"WHEREFORE, premises considered, this court resolves to dismiss the complaint for failure of plaintiff to show proof that he is prior in possession over the subject property. He who asserts, not he who denies, must prove (*Sps. Boyboy vs. Atty. Yabut, Jr.*, 449 Phil. 664, 668 {2003}).

Costs de oficio.

SO ORDERED.” (Rollo, p. 58).

In reaching its decision, the MTC explained that:

“...neither party complied with the Resolution dated August 25, 2003, directing the plaintiff to show any proof of ownership over the land subject of this case. Neither has the defendant filed an answer nor her position paper. What we have are mere allegations of ownership over the property, each claiming a right over the land but not one showing any proof of ownership over it.

A party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. The only issue that the court has to settle in an ejectment suit is the right to physical possession...

To effect the ejectment of an occupant or deforciant on the land, the complaint should embody such a statement of facts as brings 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....

It is also settled that in the resolution thereof, what is important is determining who is entitled to the physical possession of the property... Indeed, any of the parties who can prove prior possession de facto may recover such possession even from the owner himself... since such cases proceed independently of any claim of ownership and the plaintiff needs merely to prove prior possession de facto and undue deprivation thereof.” (Rollo, pp. 57-58). (citations omitted)

Marquez elevated the case to the RTC on appeal alleging that the MTC Decision was contrary to the facts obtaining in the case and is contrary to law and existing jurisprudence. (Rollo, p. 70).

On May 25, 2009, the RTC rendered its Decision affirming the MTC, thus:

“WHEREFORE, in view of the foregoing, the decision of the Municipal Trial Court of Solano DISMISSING the above case is hereby AFFIRMED.

SO ORDERED.” (Rollo, p. 73).

The RTC found no reason to disturb the findings of the MTC holding that it was in accordance with law and existing jurisprudence. (Rollo, p. 70). Marquez's Motion for Reconsideration was also denied by the RTC in its Order dated August 14, 2012. (Rollo, p. 23).

Hence, the present petition where Marquez is claiming that:

(a)

THE REGIONAL TRIAL COURT, BRANCH 29, BAYOMBONG, NUEVA VIZCAYA GRAVELY ERRED IN AFFIRMING THE DECISION OF THE MUNICIPAL TRIAL COURT OF SOLANO, NUEVA VIZCAYA, DISMISSING PETITIONER'S COMPLAINT FOR FAILURE TO SHOW PROOF THAT HE IS PRIOR IN POSSESSION OVER THE SUBJECT PROPERTY.

(b)

THE REGIONAL TRIAL COURT, BRANCH 29, BAYOMBONG, NUEVA VIZCAYA, GRAVELY ERRED IN AFFIRMING THE DECISION OF THE MUNICIPAL TRIAL COURT OF SOLANO, NUEVA VIZCAYA, DISREGARDING THE UNDISPUTED FACTS: THAT THE PETITIONER HAD SUBMITTED HIS VERIFIED COMPLAINT WITH ANNEXES AND THE RESPONDENT NOT HAVING SUBMITTED ANY ANSWER DENYING THE ALLEGATIONS OF THE PETITIONER IN HIS VERIFIED COMPLAINT. (Rollo, p. 16).

Marquez argues that the allegations in his complaint show his prior possession of the property. Daguio's Motion for Bill of Particulars merely questioned his right over the property and did not deny that she paid laborers to forcibly enter the subject land. The MTC and the RTC should have applied Section 6<sup>[1]</sup> of the Revised Rules on Summary Procedure when the respondent failed to file her Answer to the Complaint. Also in ejectment cases, it does not matter if a party's title to the property is questionable since the only question that must be resolved is who is entitled to de facto possession. In this case, his Complaint was accompanied with attachments from the Barangay Agrarian Reform Committee (BARC) Chairman and the Municipal Agrarian Reform Office (MARO). Marquez asserts that these are sufficient to prove that he has prior possession of the land in dispute. (Rollo, pp. 17-18).

The Court finds NO MERIT in the petition.

Section 1, Rule 70 of the Rules of Court provides:

"SECTION 1. *Who may institute proceedings, and when.* — Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person may at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs."

Under this provision, in order for a forcible entry suit to prosper, the plaintiff must allege and prove: (1) prior physical possession of the property; and (2) unlawful deprivation of it by the defendant through force, intimidation, strategy, threat or stealth. (*Nenita Quality Foods Corp. v. Galabo*, 689 SCRA 569, 583 [2013])