

## TWELFTH DIVISION

[ CA-G.R. SP. No. 120901, March 11, 2014 ]

**FAUSTINO REYES PAGUIO AND ALL PERSONS CLAIMING RIGHTS  
UNDER HIM, PETITIONERS, V. ELIZABETH S. ORTILE,  
REPRESENTED BY HER ATTORNEY-IN-FACT, EFREN S. ORTILE,  
RESPONDENT.**

### D E C I S I O N

**ELBINIAS, J.:**

Addressed here is a Petition for Review<sup>[1]</sup> filed under Rule 42 of the Rules of Court. The Petition assails the Decision<sup>[2]</sup> dated July 27, 2011 of the Regional Trial Court ("RTC" for brevity) of Caloocan City, Branch 125, in Civil Case No. C-22627, which affirmed the Decision<sup>[3]</sup> dated June 13, 2010 of the Metropolitan Trial Court ("MeTC" for brevity) of Caloocan City, Branch 52, in Civil Case No. 09-29500 for "Ejectment"<sup>[4]</sup>.

The salient facts are those as stated in the MeTC's Decision<sup>[5]</sup> dated June 13, 2010, to wit:

**"xxx [P]laintiff (*respondent here*) alleged that he is the owner of a parcel of land together with a small shanty located at Barangay 87, P. Jacinto St., Caloocan City covered by Transfer Certificate of Title No. C-388767 (*subject property here*) issued by the Office of Register of Deeds of Caloocan City, Metro Manila. Defendant and some of his relatives (*petitioners here*) are presently the occupants of the said small shanty constructed on the land of the plaintiff (*respondent*), which occupancy is merely be way of tolerance by plaintiff (*respondent*).**

**Sometime in early May 2008, plaintiff (*respondent*) thru her counsel, sent a formal demand letter to the defendant (*petitioner*) to vacate and voluntarily surrender the subject property to the plaintiff (*respondent*). The demand letter was actually received by the defendant (*petitioner*) on May 5, 2008 but the same failed to comply."**<sup>[6]</sup> (*Emphasis Supplied*)

Due to the failure of petitioner Faustino Reyes Paguio and all persons claiming rights under him ("petitioners" for brevity) to vacate the parcel of land ("subject property" for brevity) covered by Transfer Certificate of Title No. C-388767<sup>[7]</sup> ("TCT No. C-388767" for brevity) and owned by respondent Elizabeth S. Ortile ("respondent" for brevity) despite the latter's demand, respondent, through her Attorney-in-Fact, Efren S. Otile<sup>[8]</sup>, filed before the MeTC, a Complaint<sup>[9]</sup> for "Ejectment" against petitioners.

The rest of the facts are continued in the MeTC's Decision<sup>[10]</sup> dated June 13, 2010, as follows:

"In the Answer with Counterclaim, defendant specifically denied the material allegations made in the complaint. By way of Special and Affirmative Defenses, **defendant alleged that the case of unlawful detainer must be dismissed for lack of jurisdiction over the subject matter and cause of action. He claimed that an alleged title is no evidence of possession. Further, he alleged that the complaint does not contain any iota of proof like bills, receipts or acknowledgment document. Plaintiff has no evidence to prove prior physical possession of the said premises before defendant's occupancy in 2000. Hence, there was no implied tolerance to speak of.**"<sup>[11]</sup> (*Emphasis Supplied*)

On June 13, 2010, the MeTC rendered a Decision<sup>[12]</sup> ordering petitioners to vacate and to surrender the possession of the property to respondent, and for petitioners to pay respondent monthly rentals, Attorney's Fees, and costs of the proceedings. The dispositive portion of the MeTC's Decision read:

"WHEREFORE, premises considered, the Court renders judgment in favor of the plaintiff and against the defendant. Defendant is hereby ordered by this Court:

1. To vacate [the] premises subject matter of this case owned by the plaintiff and turn over the possession thereof to the plaintiff;
2. To pay the plaintiff the amount of P3,000.00 as reasonable compensation for the use and occupancy of the premises commencing from the time of demand until he finally vacates the same;
3. To pay [A]ttorney's [F]ees in the amount of Ten Thousand Pesos (P10,000.00);
4. To pay the costs of suit.

**SO ORDERED.**"<sup>[13]</sup> (*Emphasis was made in the original*)

Petitioners appealed from the MeTC's Decision<sup>[14]</sup> of June 13, 2010 to the RTC.<sup>[15]</sup> On July 27, 2011, the RTC rendered the assailed Decision<sup>[16]</sup> which affirmed *in toto* the MeTC's Decision<sup>[17]</sup>.

Petitioners then filed the Petition at bench, praying for the following:

"**WHEREFORE**, premises considered, it is most respectfully prayed of this Honorable Court that the petition be given due course and after due consideration that the Decision of the Regional Trial Court of Caloocan City, Branch 125, dated 27 July 2011 be **REVERSED** and **SET ASIDE** and a new one be rendered **DISMISSING** the complaint for lack of cause of action.

Other reliefs as may be deemed just and equitable under the premises are likewise prayed for.”<sup>[18]</sup> (*Emphasis was made in the original*)

Petitioners raised this sole issue:

“WHETHER THE REGIONAL TRIAL COURT ERRED IN AFFIRMING THE LOWER COURT’S DECISION DESPITE LACK OF CAUSE OF ACTION.”<sup>[19]</sup>

Contrary to petitioners' arguments in their *sole issue*, respondent sufficiently proved her right to possess the subject property.

Petitioners had argued as follows:

“In the instant case, **the plaintiff failed to substantiate her claim that the petitioner's possession of the subject property was by mere tolerance. No evidence was presented as to when and under what circumstances the alleged tolerance came about.** Her pleadings simply contained bare allegations of tolerance, xxx

xxx

On the contrary, **the petitioner raised an issue as to such alleged tolerance, insisting that he has been in possession of the disputed property since 2000, which was long before the alleged purchase thereof on 19 April 2005, and as such, she cannot claim that he was occupying the property by mere tolerance because he was ahead in time in physical possession.** In support thereof, he presented the Joint Affidavit executed by his neighbors, namely: Vicky Patag, Iluminada Bernardo and Linda Maliwanag, and a Barangay Certification, both attesting to the fact of his possession of the subject property and the length of his stay thereon.

Moreover, the respondent must likewise show that the supposed acts of tolerance have been present right from the very start of the possession-from entry of the property. xxx

**No mention, however, was made in the complaint of how entry by the petitioner was effected. Neither was there any evidence showing such detail.** xxx

**While the respondent miserably failed in substantiating the alleged tolerance, the petitioner, on the other hand, amply proved that his continued possession of the subject property was by virtue of the Deed of Donation executed by Epifania S. Reyes in his favor.**”<sup>[20]</sup> (*Emphasis Supplied*)

Prevailing over petitioners' allegations however, is that respondent acquired her right to possess the subject property. Respondent became the new owner of the subject property, as was evidenced by the Deed of Absolute Sale<sup>[21]</sup> executed by Epifania Santos-Reyes, as the seller and previous owner of the subject property, in favor of respondent, as the buyer. As a result of the sale, respondent was issued TCT No. C-388767<sup>[22]</sup> covering the property. As one of the attributes of ownership, the right to possess the subject property to the exclusion of others<sup>[23]</sup> was therefore