

## **TENTH DIVISION**

**[ CA-G.R. SP No. 131077, November 28, 2014 ]**

**ELIZABETH BULAQUEÑA, HEREIN SUBSTITUTED BY HER  
DAUGHTER MARGARITA CECILIA B. RILLERA, PETITIONER-  
APPELLANT, VS. EDITHA CARNACETE AND ANY AND ALL  
PERSONS AND/OR GROUP OF PERSONS ACTING FOR AND (IN)  
HER BAHALF, RESPONDENTS-APPELLEES.**

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

**LANTION, J.A.C., J.:**

#### **THE CASE**

This is a Petition for Review<sup>[1]</sup> under Rule 42 of the Revised Rules of Court, assailing the Decision<sup>[2]</sup> dated 28 June 2013 rendered by the Regional Trial Court (RTC), Branch 6, of Baguio City in Civil Case No. 7719-R [MTC 13481] for Unlawful Detainer, the decretal portion of which reads:

28 June 2013 Decision

“WHEREFORE, the appel is DENIED. The decision dated August 17, 2012 of the Municipal Trial Court in Cities, Branch 3, Baguio City in Civil Case No. 13481, in affirmed in toto.

SO ORDERED.”

#### **THE FACTS**

On 23 November 2010, the late Elizabeth Bulaqueña,<sup>[3]</sup> for herself and in behalf of her sister Wilhelmina Drummond,<sup>[4]</sup> filed a Complaint for Unlawful Detainer against her first cousin, respondent-appellee Edita Carnacete with the Municipal Trial Court in Cities (MTCC) of Baguio City. The case was docketed as Civil Case No. 13481 and eventually raffled to and heard by Branch 3 thereof. The Complaint reads:

“Plaintiff, through counsel, states that:

1. Plaintiff ELIZABETH BULAQUEÑA represents herself as well as WILHELMINA DRUMMOND, a co-owner of the property subject matter of

the complaint;

xxx                      xxx                      xxx

3. Plaintiffs are the registered owners of a parcel of land located at #28 Lower P. Burgos, Baguio City, covered by Transfer Certificate of Title No. T-95898, T-95899, and T-95900 issued by the Register of Deeds for the City of Baguio xxx;

4. Plaintiffs, through their predecessor-in-interest constructed a residential house within their aforecited titled property particularly on the lot covered by TCT 95899. Initially, it was intended to be and was used as the home of their mother Dra. MARGARITA FERNANDEZ. Thereafter, it was used as a "staff house" for DR. NONA CATHERINA CARNACETE who then allowed defendant Ms. EDITHA CARNACETE and other individuals to reside therein. The stay of the defendants and any/all persons and/or groups of persons acting for and in her behalf in the residential house was tolerated by the Plaintiffs and/or their predecessors-in-interest out of liberality and for purely humanitarian purposes;

5. The stay of the defendant is by mere "tolerance" as she was neither required to pay rentals, fees, compensation, or utilities for the use of the premises. Moreover, Plaintiffs have been paying for the taxes and other encumbrances over the house and over the lot being occupied by the Defendants;

6. Plaintiffs now desire to exercise their right of ownership over their properties including the residential house, thus on October 13, 2010, plaintiffs notified in writing the defendant to vacate the premises within seven (7) days from receipt thereof or on or before October 20, 2010 xxx;

7. While the letter was tendered, in a twist of fate, Ms. EDITHA CARNACETE acknowledged receipt of the Notice to Vacate by replying through a letter raising issues which were of "no moment" as to their unlawful possession of the property in question;

8. Defendants, despite notice for them to vacate the premises, and in disregard of said notice, failed, ignored, neglected, and refused and continue to fail, ignore, neglect and refuse to vacate the premises to the damage and prejudice of the plaintiffs;

xxx                      xxx                      xxx"

Respondent-Appellee Editha Carnacete, in her Answer,<sup>[5]</sup> denied the material allegations in the complaint and countered:

"2. The properties located at #28 P. Burgos, Baguio City, which is now covered by TCT No. T-95898, TCT No. T-95899, and TCT No. TCT No. T-

95900, are the ancestral property of the Jovens. It is in fact referred to as Villa Joven since time immemorial;

3. The Joven siblings are Pio Joven, Salvacion Joven, Luis Joven, Domingo Joven, Benigno Joven, and Margarita Joven Fernandez. These siblings have always treated Villa Joven as a family property which belongs to all of them. The whole Villa Joven property was a conjugal property of the late Pio and Romana Joven xxx;

4. The late Pio Joven purchased Villa Joven in the late 1940s. For reasons of convenience however, he had the properties registered under the name of her sister, Salvacion Joven These are registered as TCT No. T-258, TCT No. T-259, and TCT No. T-260;

xxx            xxx            xxxx

6. When the Joven siblings put up the school which is now called Baguio Central University (BCU) (formerly Lyceum of Baguio and before that, Joven, Inc.), Pio Joven agreed to allow the school to use a portion of the property for educational purposes. At present, the Villa Joven accomodates the Sto. Niño Hospital Building, the College of Medicine, the College of Nursing, the Pio Joven research center, two residential houses, the tomb of Salvacion Joven, and a small area is now reserved as a final resting place for Margarita Joven Fernandez;

7. Margarita Fernandez was primarily in charge with the school and she was allowed to occupy one of the residential houses within Villa Joven since she was the president of the school, and it would be to her convenience and advantage of the school if she is living within a proximate distance;

xxx            xxx            xxx

10. Defendant (Editha Carnacete) literally grew up at Villa Joven. She has always been very close to plaintiffs' mother, Dr. Margarita Fernandez. When defendant's mother died during the World War II, Margarita Fernandez raised the defendant like a daughter;

xxx            xxx            xxx

12. In the 1960s, the late Pio Joven xxx advised the defendant to occupy the subject house and lot as his bequest to the defendant, and told her that this will be for the use of the defendant and her family. Since then, the Joven family always treated the subject house and lot as "belonging" to the defendant;"

xxx            xxx            xxx

19. Defendant and her daughter Kookoo (Dr. Nona Catharina Natividad Joven Carnacete) stayed at the first floor of the former residence of the late Pio Joven, the same residence where Margarita Fernandez stays until today. The subject house and lot was then occupied by the former

administrator of the hospital so the defendant cannot occupy the same. However, when the hospital administrator's employment was terminated, Margarita Fernandez told the defendant and her daughter to occupy the subject house and lot because after all, this was given to them by the late Pio Joven;

20. Defendant's daughter fervently assisted Margarita Fernandez with the school and the hospital. Defendant's daughter diligently helped save the school and the hospital and instituted reforms with the aim of making the school and the hospital more efficient and competent. xxx She also personally took care of Margarita Fernandez and her sister Salvacion Joven who needed full time medical attention;

21. The possession by the defendant of the subject property has always been lawful as a co-owner, being a member of the Joven family. The letter of the plaintiffs asking her to vacate cannot make illegal her possession of the property because the defendant has equal, if not superior rights over the specific house and lot which is now the subject of this case. Defendant was always deemed the owner of this house and lot as a bequest from Pio Joven. The Joven family recognizes this fact, except apparently, the herein plaintiffs;

22. It appears now that plaintiffs transferred the titles over the whole Villa Joven to their own names by virtue of a Deed of Donation. The transfer was however done at a time when Margarita Fernandez no longer had the legal capacity to enter into any legal transactions because of her medical condition. The medical condition of Margarita Fernandez was not unknown to the plaintiffs. In fact, on March 17, 2008, the plaintiffs sent out a Memorandum to the employees of the hospital advising them that Margarita Fernandez' signature was already illegible. This was because Margarita Fernandez was already suffering from senile dementia of the Binswanger's type, as will be shown by her medical records. Surprisingly, the Deed of Donation over Villa Joven was executed on March 29, 2008, or after the plaintiffs themselves acknowledged the incapacity of Margarita Fernandez;

xxx            xxx            xxx

24. (W)hen the late Salvacion Joven transferred the properties comprising of Villa Joven to Margarita Fernandez in 1987, this was done without any consideration, and only for the purpose of convenience since Margarita Fernandez was the person primarily in charge with the school and the hospital. This transfer, however, was never intended to take the property away from its intended use, which is for the benefit of the whole Joven family. The transfer also did not intend to take the subject house and lot from the defendant xxx."

Preliminary Conference was held on 14 June 2012. The lower court, thereafter, directed the parties to submit their respective Position Papers.

On 17 August 2012, the MTCC, Branch 3 of Baguio City rendered a Decision<sup>[6]</sup> which dismissed petitioner-appellant's Complaint. The *fallo* reads:

"WHEREFORE, with the foregoing disquisition, plaintiff's complaint for unlawful detainer and damages is hereby dismissed for lack of cause of action.

Defendant's counterclaim is likewise dismissed for lack of basis.

SO ORDERED."

Petitioner-appellant seasonably appealed the case to the RTC of Baguio City. The case was raffled to Branch 6 thereof.

On 28 June 2013, the RTC, Branch 6 of Baguio City issued the herein assailed Decision which affirmed the 17 August 2012 Decision of MTCC, Branch 3.

Hence, this Petition.

### **ASSIGNMENT OF ERRORS**

Petitioner-appellant cites the following assignment of errors in the instant Petition:

"I

THE LOWER COURTS ERRED IN DISMISSING THE COMPLAINT FOR UNLAWFUL DETAINER FOR LACK OF CAUSE OF ACTION.

II

THE LOWER COURTS ERRED IN NOT FINDING THAT THE STAY OF RESPONDENTS IN THE PREMISES WAS BY MERE TOLERANCE."

### **THIS COURT'S RULING**

We resolve.

Petitioner-appellant Margarita Cecila B. Rillera assails the 28 June 2013 Decision rendered by the RTC, Branch 6, of Baguio City. The said Decision affirmed the 17 August 2012 ruling of MTCC, Branch 3 of Baguio City which dismissed the Complaint for unlawful detainer (tolerance) on the ground of lack of cause of action. Petitioner-appellant contends:

"In finding lack of cause of action as the ground of dismissal of the appeal and in affirming the decision of the Municipal Trial Court, the court *a quo* reasoned out: xxx. The ratiocination of the court *a quo* is