

## TWENTY-THIRD DIVISION

[ CA-G.R. SP NO. 05128, January 23, 2013 ]

**SPOUSES RAY ANTONIO SASING AND BEMA M. SASING,  
PETITIONERS, VS. ANNABELLE N. AMORES AND NELSON  
CALANDRIA, RESPONDENTS.**

### D E C I S I O N

**LLOREN, J.:**

This is a Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure seeking to set aside the April 2, 2012 Judgment<sup>[1]</sup> and the September 19, 2012 Order<sup>[2]</sup> of the Regional Trial Court of Misamis Oriental, 10th Judicial Region, Branch 20, in Civil Case No. 2010-331. The said Judgment and Order of the RTC affirmed *in toto* the October 15, 2010 Decision<sup>[3]</sup> of the Municipal Trial Court in Cities of Cagayan de Oro in Civil Case no. C9-JUN-111, an action for Ejectment.

The facts as culled from the records:

The subject of the controversy involves a house and lot located in Kauswagan, Cagayan de Oro City.

The property was previously owned by the Nagac family.

One of the members of the Nagac family, Enriqueta Nagac, allowed herein petitioners, spouses Ray Antonio Sasing and Bema M. Sasing (spouses Sasing) to occupy the subject property by virtue of a Contract of Lease.<sup>[4]</sup>

On July 4, 1994, the Nagac family, thru an Extra-Judicial Settlement with Sale, sold the property in favor of Gregorio Rom.<sup>[5]</sup>

After the death of Gregorio Rom, his heirs, on May 12, 2009, executed an Extra-Judicial Partition with Deed of Sale and sold the property to herein respondents, Annabelle N. Amores and Nelson Calandria.<sup>[6]</sup>

In their Complaint, respondents alleged that sometime in May 2009, the heirs of Gregorio Rom asked spouses Sasing to vacate the subject property as it has already been sold. Since the spouses Sasing refused to vacate, the heirs of Gregorio Rom even filed a complaint before the Office of Barangay Kauswagan, Cagayan de Oro City. However, the supposed settlement in the Barangay did not push through as the heirs of Gregorio Rom went back to Manila weeks later.

The respondents eventually lodged an action before the same Barangay Office praying that the spouses Sasing vacate the subject property. In clear defiance to the respondents, spouses Sasing insulted and challenged the former to file a case in court.

It was also alleged that the spouses Sasing failed to pay the rent of the house and lot since the death of Enriqueta Nagac in October 2007.

On their part, spouses Sasing alleged that the MTCC has no jurisdiction over the case; that the case is neither for unlawful detainer nor forcible entry. Spouses Sasing also alleged that not a single demand letter was sent to them to vacate the premises and to pay the rentals; such demand being a necessary element of unlawful detainer. Also, there was no allegation in the complaint that the plaintiffs (respondents) were in prior physical possession of the property and that they were deprived of the possession by any means provided for in the Rules of Court. Hence, there can be no case for forcible entry.<sup>[7]</sup>

The MTCC in a Decision<sup>[8]</sup> dated October 15, 2010 ruled in favor of the respondents. The *fallo* reads:

WHEREFORE, finding in favour of the plaintiffs, the Court hereby orders the defendants:

1. To forthwith peacefully vacate the lots made subject of the complaint and turn over possession thereof, together with all improvements existing thereon, to the plaintiffs;
2. To pay to the plaintiffs monthly rental for the use and enjoyment of the property at the rate of P3,000.00 per month from October 2007 up to the time the defendants shall have vacated the premises;
3. To pay attorney's fees in the sum of P20,000.00;
4. To reimburse plaintiffs the sum of P3,230.00 for the filing fees;
5. To pay litigation expenses in the sum of P10,000.00.

For lack of substantiation, claims for moral damages are denied.

SO ORDERED.

In ruling for the respondents, the MTCC ratiocinated as follows:

After closely going over the records and judiciously assessing the presentations, documentary evidences and arguments of the contending parties, the Court finds the position of the plaintiffs (respondents) more in keeping with the facts, the documentary evidence(s) and the laws pertinent to the issues raised. We discerned from the statements of the parties that the plaintiffs have claims of ownership over the property made subject of the case amply supported and evidenced by documentary exhibits. On the other hand, the Court could not find anywhere in the pleadings any evidence of ownership by the defendants who actually never asserted ownership over the property. Most certainly, the evidence(s) of the plaintiffs heavily tilt the resolution of the case in favour of the plaintiff. All throughout the defendants merely harped on the jurisdiction of the Court to hear this case. The matter of jurisdiction has been clearly established by the plaintiff.