



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GORGONIO P. PALAJOS,
Petitioner,

G.R. No. 205832

- versus -

Present:
PERLAS-BERNABE, S.A.J.,*
HERNANDO,
*Acting Chairperson,***
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

JOSE MANOLO E. ABAD,
Respondent.

Promulgated:

MAR 07 2022

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DECISION

HERNANDO, J.:

Challenged in this Petition for Review on *Certiorari*¹ is the September 4, 2012 Decision² and the February 7, 2013 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 111323 holding that respondent Jose Manolo E. Abad (Manolo) had prior possession of the subject property than petitioner Gorgonio P. Palajos (Palajos) in the ejectment suit of forcibly entry.

The Antecedents:

On February 25, 2006, Manolo and his siblings, namely, Ma. Jasmin E. Abad and Jose Roman E. Abad (collectively, plaintiffs), filed a complaint for

* On official business.

** Per Special Order No. 2872 dated March 4, 2022.

¹ *Rollo*, pp. 9-35.

² *Id.*, at 37-48. Penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla (now a retired member of this Court).

³ *Id.* at 10.

forcible entry against Palajos, along with other individuals, namely, Geraldine Palarca, Fe Pilapil, Evelyn Adamiro, Henry Gutierrez, Michael Dagooc, Amaro Emberga, Francisco Oyao, Victor Bayudang, Simon Ayson, Ben Diaz, Nards Boagas, Gemina or “Mina” Tapid and Everlie Eguia (collectively, defendants), with the Metropolitan Trial Court (MeTC) of Quezon City, Branch 38, docketed as Civil Case No. 06-35654.⁴

On April 25, 2006, while Civil Case No. 06-35654 was pending before the MeTC, plaintiffs filed a motion to render judgment claiming that defendants therein either filed their answer beyond the reglementary period or did not file any answer at all.⁵ In its June 16, 2006 Order, the MeTC granted plaintiffs’ motion, except against Palajos whose answer was admitted.⁶

Plaintiffs claimed that they are the registered owners of three adjacent and contiguous parcels of land, more particularly described as Lot Nos. 5, 7 and 9 of Block 73, located at Pound Street, Phase 8, North Fairview, Quezon City, covered by Transfer Certificate of Title Nos. (TCT) N-213030, N-213028 and N-213029, with an aggregate area of 1,200 square meters (subject property), which they acquired from their parents in 1999. Sometime in September or October 2001, they took actual possession of the subject property and constructed a concrete perimeter fence around it.

Plaintiffs claimed that on the third week of January 2006, they discovered that defendants, by means of force upon things, strategy and stealth and without their knowledge and consent, destroyed portions of the perimeter fence, entered the subject property and constructed their houses thereon, depriving plaintiffs of their possession. Upon discovery, plaintiffs made demands for defendants to vacate but the latter failed and refused to remove their houses and structures. As a result, plaintiffs filed a complaint before the proper barangay authorities, but defendants still failed to comply with their demand.

In their complaint for forcible entry, plaintiffs asserted, among others, that they suffered and continue to suffer compensatory damages in the amount of at least ₱30,000.00 a month equivalent to the reasonable value and use of the subject property.⁷

On the other hand, Palajos claimed that he entered Lot No. 5 of the subject property by virtue of a May 4, 1988 deed of absolute sale which B.C. Regalado & Co. executed in his favor. To further substantiate his claim of prior physical possession of Lot No. 5, he averred that: (i) he paid real property taxes as evidenced by receipt of payment on February 17, 2005 and January 21, 2006;

⁴ Id. at 12.

⁵ Id. at 13 and 39.

⁶ Id. at 242.

⁷ Id. at 38.

(ii) he possesses proofs of billing of his Bayantel telephone which he had installed in his residence in the year 2004; and (iii) he was able to procure a Commission on Elections (COMELEC) registration application of his son, Ronald C. Palajos, dated October 24, 2003.⁸

Ruling of the Metropolitan Trial Court:

In its September 21, 2007 Decision,⁹ the MeTC ruled in favor of plaintiffs finding that they had prior physical possession of the subject property since they constructed a concrete perimeter fence thereon sometime in September to October 2001.¹⁰ The dispositive portion of the MeTC's Decision reads:

WHEREFORE, judgment is hereby rendered directing the defendants and all persons deriving right from them, to vacate the real properties known as Lots 5, 7 and 9 of Block 73, Pound Street, Phase 8, North Fairview, Quezon City and for each of them to pay the plaintiffs the amount of PESOS: ONE THOUSAND (P1,000.00) as reasonable monthly rentals from January 2006 until they fully vacate the same plus the amount of P10,000.00 as attorney's fees.

SO ORDERED.¹¹

Aggrieved by the MeTC's Decision, Palajos filed an appeal which was given due course. The other defendants, namely, Veverlie Eguia, Dennis Villanueva, Shierra Toribio and Bong Fausto filed a motion to set aside the rendered judgment and/or suspension of proceedings which was denied.¹²

Ruling of the Regional Trial Court:

In its August 28, 2009 Decision,¹³ the RTC reversed the MeTC ruling. The RTC found that the plaintiffs failed to prove prior actual physical possession. The *fallo* of the RTC's Decision reads:

WHEREFORE, premises considered, the instant appeal is GRANTED. The assailed Decision dated September 21, 2007 of the Metropolitan Trial Court, Branch 38, Quezon City is reversed and set aside and a new judgment is hereby entered dismissing the case for forcible entry against defendant-appellant Gorgonio P. Palajos.

SO ORDERED.¹⁴

⁸ Id. at 39 and 43.

⁹ Id. at 194-197. Penned by Judge Nadine Jessica Corazon J. Fama.

¹⁰ Id. at 196.

¹¹ Id. at 197.

¹² Id. at 40.

¹³ Id. at 240-247. Penned by Ofelia Arellano Marquez.

¹⁴ Id. at 247.

Unsatisfied, Manolo filed a petition with the CA.

Ruling of the Court of Appeals:

In its assailed September 4, 2012 Decision, the CA granted Manolo's petition and reversed the RTC ruling. The CA found that Manolo sufficiently proved that he had prior physical possession over the subject property. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. The Decision dated 28 August 2009 of the Regional Trial Court, Branch 216, Quezon City, in Civil Case No. Q-09-64229 is hereby **REVERSED and SET ASIDE**. The Decision dated 21 September 2007 of the Metropolitan Trial Court, Branch 38, Quezon City in Civil Case No. 06-35654, is hereby **REINSTATED**.

SO ORDERED.¹⁵

Palajos moved for a reconsideration which the CA denied in its February 7, 2013 Resolution.¹⁶

Aggrieved, Palajos filed the instant petition for review on *certiorari* under Rule 45 of the Rules of Court.

Issues

(1).

THE COURT OF APPEALS GRAVELY ERRED WHEN IT DID NOT CONSIDER THE OTHER FACTUAL CIRCUMSTANCES INDUBITABLY SHOWING THAT THE PETITIONER WAS AHEAD THAN THE RESPONDENT IN THE POSSESSION OF LOT 5, BLOCK 73, LOCATED AT POUND STREET, PHASE 8, NORTH FAIRVIEW, QUEZON CITY;

(2).

THE COURT OF APPEALS GRIEVOUSLY ERRED IN FINDING THAT PETITIONER MADE A CLANDESTINE ENTRY IN THE PREMISES DESPITE TOTAL ABSENCE OF EVIDENCE TO SUBSTANTIATE THE SAME.¹⁷

Thus, the pivotal issue in this case is whether or not Manolo proved his prior physical possession of the subject property, which includes Lot No. 5, Block 73, to entitle him to recover in an ejectment suit of forcible entry.

¹⁵ Id. at 47.

¹⁶ Id. at 50-51.

¹⁷ Id. at 18.

Our Ruling

The petition is devoid of merit.

Rule 70 of the Rules of Court governs actions for ejectment. Section 1 of this Rule 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.

There are two (2) kinds of ejectment suits, namely: (1) forcible entry; and (2) unlawful detainer, the differences of which may be summarized as follows:

	<i>Forcible Entry</i>	<i>Unlawful Detainer</i>
<i>Possession</i>	<p>The possession of the defendant or the intruder is illegal from the beginning because his/her possession of the property is against the will or without the consent of the plaintiff or the former possessor.</p> <p>Thus, plaintiff must allege in the complaint and prove that he/she was in prior physical possession of the property in litigation until he/she was deprived thereof by the defendant.</p>	<p>The possession is previously legal but eventually becomes unlawful upon the expiration of one's right to possess the property after, for instance, the termination or violation of a lease contract.</p> <p>Thus, the plaintiff need not have prior physical possession of the property.</p>
<i>Demand to Vacate</i>	No previous demand to vacate is required before the filing of the action.	Prior to the filing of the action, plaintiff must issue a demand to vacate to defendant, which the latter fails to comply.

<i>Prescriptive Period</i>	In general, the one-year prescriptive period is reckoned from the date of actual entry on the property. However, if forcible entry is done through stealth, the period is counted from the time the plaintiff discovered the entry.	The one-year period in unlawful detainer is counted from the date of the last demand to vacate. ¹⁸
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Thus, the three elements that must be alleged and proved for a forcible entry suit to prosper are the following:

(a) plaintiff had prior physical possession of the property before the defendant encroached on the property;

(b) plaintiff was deprived of possession either by force, intimidation, threat, strategy or stealth by defendant; and

(c) that the action was filed within one (1) year from the time the plaintiff learned of his deprivation of the physical possession of the property, except that when the entry is through stealth, the one (1)-year period is counted from the time the plaintiff-owner or legal possessor learned of the deprivation of the physical possession of the property.¹⁹

In this case, Palajos contends that two elements of forcible entry are absent: first, Manolo had no prior physical possession of the property; and second, the action was filed beyond the one-year prescriptive period.

We disagree.

As a rule, “possession” in forcible entry cases refers to prior physical possession or possession *de facto*, not possession *de jure* or that arising from ownership. Title is not an issue.²⁰ As an exception, Section 16, Rule 70 of the Rules of Court provides that the issue of ownership shall be resolved in deciding the issue of possession if the question of possession is intertwined with the issue of ownership. Thus, based on the foregoing, the issue of ownership of the property in forcible entry cases may be provisionally determined — to determine the issue of possession and only if the question of possession cannot be resolved without deciding the issue of ownership.²¹

¹⁸ *Philippine Long Distance Telephone Co. v. Citi Appliance M.C. Corp.*, G.R. No. 214546, October 9, 2019.

¹⁹ *Id.*

²⁰ *Madayag v. Madayag*, G.R. No. 217576, January 20, 2020.

²¹ *Esperal v. Trompeta-Esperal*, G.R. No. 229076, September 16, 2020.

In addition, We have likewise consistently held that “possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one’s will or by the proper acts and legal formalities established for acquiring such right.”²² Our ruling in *Mangaser v. Ugay*²³ is instructive:

Possession can be acquired by juridical acts. These are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, execution and registration of public instruments, inscription of possessory information titles and the like. The reason for this exceptional rule is that possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession. It is sufficient that petitioner was able to subject the property to the action of his will.²⁴ (Citations omitted)

Furthermore, in *Madayag v. Madayag*,²⁵ We likewise pointed out that:

As correctly held by the RTC, thus, Patrick has sufficiently proven prior possession of the subject property by juridical act, specifically, through the issuance of a Certificate of Lot Award and subsequent sale of the subject property in his favor, and the registration thereof in the Torrens system in his name. As consistently held by the Court, if we are to disregard such juridical acts and unreasonably constrict the concept of prior possession to “physical occupation” in its rigid literal sense, then it will open floodgates of absurdity wherein land intruders will be favored under the law than Torrens title holders. Such intruders may then easily be favored in a summary procedure of ejectment by mere assertion of physical occupation. On the other hand, Torrens title holders would have to resort to the protracted litigation in an ordinary civil procedure by filing either an *accion publiciana* or *accion reivindicatoria*, while the intruders, in the meantime, enjoy the use of another man's land.²⁶ (Underscoring supplied)

This Court finds that it is necessary to provisionally determine ownership of the subject property for purposes of determining prior possession. In the instant case, both the MeTC and the CA correctly found that Manolo and his siblings were able to establish that they are the registered owners of the subject property which they acquired from their parents in 1999.²⁷ Although they did not immediately put the same to active use, but viewed in the light of the foregoing juridical acts, Manolo had been occupying the land since 1999. On the other hand, Palajos claims that his right to enter Lot No. 5 of the subject property was by virtue of a May 4, 1988 Deed of Absolute Sale which B.C.

²² *Mangaser v. Ugay*, 749 Phil. 372, 382 (2014).

²³ Id.

²⁴ Id. at 382-383.

²⁵ Supra note 20.

²⁶ Id.

²⁷ *Rollo*, p. 38.

Regalado & Co. executed in his favor.²⁸ However, We find that Palajos failed to substantially prove the same. We cite in agreement the following findings of the MeTC:

It is also worthwhile to note that, defendant Palajos' assertions are conflicting. In his Answer, he anchored his claim of prior physical possession on a Deed of Absolute Sale, which was executed in his favor in 1988 by B.C. Regalado & Co., Inc. In his Position Paper, however, he claimed that the subject premises is part of the Intestate Estate of the late Don Hermogenes and Antonio Rodriguez and that the administrator of the Estate assigned it to him on February 26, 1991 and on November 7, 2006, a Deed of Absolute Sale was executed in his favor by the administrator of the Estate. If his allegation that he acquired the subject property in 1988 through a Deed of Sale with B.C. Regalado were true, then there would [be] no need for him to acquire the same for P650,000.00 from the Estate of Don Hermogenes and Antonio Rodriguez.²⁹

With regard to the issue of prior physical possession, sometime in September or October 2001, Manolo and his siblings took actual possession of the subject property and constructed a concrete perimeter fence around it.³⁰ On the other hand, Palajos' evidence of alleged prior possession of Lot No. 5 of the subject property - such as payment of real property taxes on February 17, 2005 and January 21, 2006, or proofs of billing of his Bayantel telephone which he had installed in his residence in the year 2004, or that he was able to procure a COMELEC registration application of his son on October 24, 2003³¹- are incidents that occurred after Manolo took possession of the subject property. Thus, this Court finds that Manolo had prior physical possession of the subject property.

Anent the claim of prescriptive period, We find that the same was filed within one year from the time Manolo and his sibling discovered the clandestine entry of the defendants on the third week of January while the complaint was filed on February 23, 2006.³² Entry in the premises of the subject property without the consent and knowledge of the registered owner, clearly falls under stealth, which is defined as "any secret, sly or clandestine act to avoid discovery and to gain entrance into, or to remain within [the] residence of another without permission."³³

ACCORDINGLY, the instant petition is **DENIED**. The assailed September 4, 2012 Decision and February 7, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 111323 are hereby **AFFIRMED**.

²⁸ Id. at 39 and 43.

²⁹ Id. at 196-197.


³⁰ Id. at 38.

³¹ Id. at 39 and 43.

³² Id. at 197.

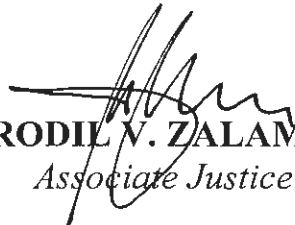
³³ *Madayag v. Madayag*, supra note 20.


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official business.
ESTELA M. PERLAS-BERNABE
Senior Associate Justice

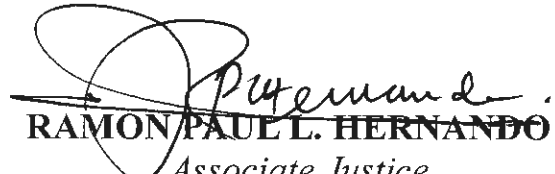

RODIL N. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice