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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **July 30, 2014** *which reads as follows:*

"G.R. No. 190305 - *ANTONIO MANGADAP, Petitioner, v. FLAVIANO UALAT AND MARIA BACANI CULANG, Respondents.*

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul the Decision[1] dated May 4, 2009 and Resolution[2] dated November 17, 2009 of the Court of Appeals in CA-G.R. SP No. 104011, entitled "*Antonio Mangadap v. Flaviano Ualat and Maria Bacani Culang*," which affirmed the Decision[3] dated April 24, 2008 of the Regional Trial Court (RTC) of Echague, Isabela, Branch 24, in Civil Case No. Br. 24-0717. The April 24, 2008 ruling of the RTC, in turn, affirmed the Decision[4] dated February 11, 2008 of the Municipal Trial Court (MTC) of Echague, Isabela, in Civil Case No. 1131.

The factual backdrop of this case as contained in the assailed May 4, 2009 Decision of the Court of Appeals is as follows:

> Claiming to have been dispossessed of real property, petitioner Antonio M. Mangadap sought the ejectment of respondents Flaviano Ualat and Maria Bacani-Culang.
>
> Petitioner alleged that he is the registered owner of a parcel of land identified as Lot No. 3180, Cad. 210 with an area of about 44,555 square meters ("cadastral lot"), situated at the Dammang East, Echague, Isabela. The said lot was originally a public agricultural land surveyed and applied for by his late grandfather, Anatolio Mangadap ("Anatolio"), who died in 1978. Through succession, the said cadastral lot was subsequently transferred to his (petitioner's) parents, Tomas Mangadap ("Tomas") and Inuracion Mamuri Vda. de Mangadap ("Inuracion").

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1 *Rollo*, pp. 101-110; penned by Associate Justice Magdangal M. De Leon with Associate Justices Remedios A. Salazar-Fernando and Ramon R. Garcia, concurring.
2 Id. at 111-112.
3 Id. at 92-99.
4 Id. at 56-67.

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Tomas had predeceased Anatolio, while Inuracion died intestate on March 10, 1997. As surviving heirs, petitioner and his only sister Lita Mangadap-Gaffud executed sometime in 2005 an *Extra-Judicial Settlement with Simultaneous Waiver of Rights*, adjudicating to him the cadastral lot for real property taxation purposes. On August 21, 2006, his free patent application under FPA No. 023112-3225 was approved, after complying with all the legal requirements. On September 4, 2006, the Department of Environment and Natural Resources (DENR) issued to him a title called "Katibayan ng Orihinal na Titulo Blg. OSC-2328" ("*Katibayan*").

Petitioner further alleged that he has been in possession of the said cadastral lot. Prior to the issuance of his *Katibayan*, he allowed, by tolerance, respondents' cultivation and possession of about one (1) hectare area, part of the subject cadastral lot. However, after the death of Anatolio and Inuracion, respondents continued to occupy the said portion.

On several occasions, petitioner asked the respondents to vacate the premises but they refused. He sought to recover its possession through the Barangay Captain of Dammang East but respondents did not appear in the scheduled conference. Believing that respondents had no legal right over the disputed property, he sent on February 19, 2007 a *Notice of Final Demand.* Still, they obstinately refused to vacate.

On March 22, 2007, petitioner filed before the Municipal Trial Court, Echague, Isabela (MTC) a complaint for "Unlawful Detainer plus Damages with Prayer for Temporary Restraining Order and/or Preliminary Mandatory Injunction," docketed as Civil Case No. 1131. To enforce his rights, he engaged the services of counsel for ₱15,000.00 as professional fee plus ₱2,000.00 *honorarium* for every hearing actually attended, and due to respondents' alleged bad faith, he prayed for exemplary damages of ₱20,000.00.

In their *Answer*, respondents posited that petitioner's *Katibayan* title was surreptitiously and illegally issued; that their predecessors-in-interest were in actual and physical possession and cultivation of the above-mentioned landholding since 1941 or thereabouts when they started clearing its premises and subsequently tilled the same; that their predecessors' ownership and possession of the disputed property were evidenced by Tax Declaration Nos. 99-12-019-00244-A and 99-12-019-00243, issued to Felisio Ualat and Victor Ualat, respectively; and, that as successors, respondents had maintained cultivation and possession of portions of the property in the concept of lawful possessors under a claim of ownership.[5]

After a pre-trial conference and the submission of position papers by each party, the MTC passed upon the case and decided to dismiss it for insufficiency of evidence. The dispositive portion of the assailed February 11, 2008 Decision of the MTC reads:

5 Id. at 102-104.

WHEREFORE, in the light of the foregoing, for insufficiency of evidence, this case is as it is hereby DISMISSED.[6]

Dissatisfied with the ruling, petitioner appealed to the RTC but this appeal was denied via the assailed April 24, 2008 Decision of the RTC, which merely affirmed the MTC judgment.

Still hopeful for a favorable outcome, petitioner elevated his case to the Court of Appeals. However, the appellate court denied his petition.

Hence, petitioner seeks our review of the merit of his claim that he is the registered owner and; hence, he has the natural and vested right to possession, custody and control of the questioned property.

We agree with the courts *a quo*.

It is axiomatic that the nature of an action and whether the tribunal has jurisdiction over such action are to be determined from the material allegations of the complaint, the law in force at the time the complaint is filed, and the character of the relief sought irrespective of whether the plaintiff is entitled to all or some of the claims averred.[7] Furthermore, in civil cases, it is a basic rule that the party making allegations has the burden of proving them by a preponderance of evidence.[8]

As correctly pointed out by the Court of Appeals, petitioner failed to establish by preponderance of evidence his cause of action which is defined as the act or omission by which a party violates a right of another.[9]

A review of the records of this case indicates that petitioner has erroneously filed a complaint for unlawful detainer based on his claim of ownership of the parcel of land at issue. As described in both law and jurisprudence, unlawful detainer is an action to recover possession of real property from one who unlawfully withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied.[10] Thus, in an unlawful detainer case, the physical or material possession of the property involved, independent of any claim of ownership by any of the parties, is the sole issue for resolution.[11]

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6 Id. at 67.

7 *Republic v. Roman Catholic Archbishop of Manila*, G.R. No. 192975, November 12, 2012, 685 SCRA 216, 222.

8 *New Sun Valley Homeowner's Association, Inc. v. Sangguniang Barangay, Barangay Sun Valley, Parañaque City*, G.R. No. 156686, July 27, 2011, 654 SCRA 438, 464.

9 *National Spiritual Assembly of the Baha'is of the Philippines v. Pascual*, G.R. No. 169272, July 11, 2012, 676 SCRA 96, 101.

10 *Union Bank of the Philippines v. Maunlad Homes, Inc.* G.R. No. 190071, August 15, 2012, 678 SCRA 539, 545.

11 *Heirs of Albina G. Ampil v, Manahan,* G.R. No. 175990, October 11, 2012, 684 SCRA 130, 139.

We quote with approval the extensive and detailed reasoning behind the dismissal of petitioner's complaint for unlawful detainer as laid out in the assailed May 4, 2009 ruling of the Court of Appeals:

> *First.* **The land in question was part of the public land in the year 1977. There was no proof whether petitioner through his predecessors-in-interest may have actually entered into possession of the subject property.** At such period, it is obvious that there was no way in which the supposed possession of petitioner could have been disturbed.
>
> *Second.* Petitioner's claim of ownership through the *Katibayan* was issued on September 4, 2006. Yet, prior to this date, his predecessors-in-interest never dared to establish ownership thereof by applying for it with the proper government agencies. To stress, ejectment proceedings are limited to the solitary issue of legality of possession. As found below:
>
> > "x x x if petitioners are indeed the owners of the subject lot and were unlawfully deprived of the real right of possession, they should present their claim before the regional trial court in an *accion publiciana* or an *accion reinvindicatoria*, and not before the metropolitan trial court in a summary proceeding of unlawful detainer or forcible entry. For even if one is the owner of the property, the possession thereof cannot be wrested from another who had been in the physical or material possession of the same for more than one year by resorting to a summary action for ejectment."
>
> *Third.* **Respondents, through their predecessors-in-interest, declared the subject property for taxation purposes dating back in the year 1941, when it was still part of the public domain. Since then, they have been in actual and physical possession thereof.** While tax declarations and realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good *indicia* of the possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property.
>
> *Fourth.* **Technically, petitioner's naked possession started only when he was issued his *Katibayan* on September 4, 2006 and thereafter paid realty taxes purportedly as the registered owner** of the subject lot which, in effect, was segregated from the public land. Prior to that date, however, the evidence is nil to show that petitioner and/or his predecessors-in-interest had actually come into possession of the questioned property. Ironically, payment of taxes without possession could hardly be construed as an exercise of ownership.
>
> *Fifth.* **Clearly, respondents had priority in time of possession of the property in dispute. That is, their possession as owners could not be through the grace or tolerance of petitioner. Logically,**

petitioner had no legal right to disturb much less dispossess respondents of the property by the bare allegation of unlawful detention. The preponderant evidence conclusively disclosed, thus:

> "There could [be] no way plaintiff's predecessors-in-interest could have granted permission to defendants to possess the property as they had no right to do so. They were not the owners thereof neither were they in possession thereof at the time entry was perpetrated. x x x. The Court surmises that when defendants entered into the property, it was the intention of claiming it as theirs, under the Public Land Act. It was for this reason that they have actually filed a protest before the DENR, contesting the grant of the certificate of title to plaintiff, Exh. "6".
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> Upon the issuance of the title upon [plaintiff], [he] demanded for the defendants to surrender the property claiming that possession is an attribute of ownership. In short, plaintiff is evidently banking on his certificate of title as basis in claiming possession although he claims that he was actually revoking the tolerance given upon defendants. Question is, will an unlawful detainer on the ground of tolerance lie against the defendant[s] for them to yield possession of the property in favor of the plaintiff.
>
> x x x For one, [plaintiff's family] should have demanded for a rental fee or share in the yield of the land considering that it is agricultural in nature. [They] acted against rhyme and reason when they allowed defendants to be earning from their property for so long a time, without demanding for some sort of payment for the use of the land. The claim that the stay of the defendants was solely per tolerance is incredulous."[12] (Citations omitted; emphases supplied.)

To put it succinctly, notwithstanding petitioner's recent obtention of a certificate of title to purportedly show ownership, he nonetheless failed to prove the other elements of his cause of action for unlawful detainer, *i.e.*, that he or his predecessors-in-interest had possession of the subject property prior to respondents and that the possession of the latter was by petitioner's or his predecessors' mere tolerance or permission. It would likewise appear from the pleadings on record that respondents administratively contested the Department of Environment and Natural Resources' issuance of a title under a free patent to petitioner on the ground that said title had been secured through fraud.

On the basis of the foregoing facts and jurisprudence, we find no persuasive argument in the instant petition that will convince us to overturn the assailed judgment of the appellate court.

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12 *Rollo*, pp. 107-109.

WHEREFORE, premises considered, the present petition for review on *certiorari* is **DENIED** for lack of merit.

SO ORDERED."

Very truly yours,

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Division Clerk of Court
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The Hon. Presiding Judge
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(Civil Case No. Br. 24-0717)

Judgment Division (x)
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