



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 17, 2020** which reads as follows:*

“G.R. No. 222906 – JOSE G. BOMA vs. YOLANDA C. PIMENTEL

Antecedents

In her Complaint¹ for forcible entry, respondent Yolanda Pimentel essentially averred: She was one of the co-owners of a parcel of land located in Brgy. Mampurog (now Maisog), Daet (now San Lorenzo Ruiz), Camarines Norte. The lot had an area of 477,534 square meters, particularly described as follows:

A parcel of land (Lot 1, as amended, plan Psu-134908, L.R. Case No. N-264, LRC Record No. N-21677), situated in the Barrio of Mampurog, Municipality of Daet, Province of Camarines Norte. Bounded on the N, by the Daet River; on the SE., by the Daet River and the excluded portion; on the SW by a public land, creek and property of Esteban Aguirre; and on the NW by Pandan Creek, containing an area of Four Hundred Seventy Seven Thousand Five Hundred Thirty Four (477,534) square meters, more or less covered by Transfer Certificate of Title No. T-14489 of the Register of Deeds of Camarines Norte in the names of the undivided equal shares of Sylvia C. Pimentel and Yolanda C. Pimentel, declared under ARP No. GR-2011-GG-04-005-00076 and totally assessed at P359,840.00.²

The lot was originally registered on March 11, 1963 under OCT No. O-240 in the name of Marcial Pimentel. OCT No. O-240 was later cancelled when a portion thereof, identified as Lot 2, was sold to

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¹ Rollo, pp. 106-112. Filed on June 18, 2012.

² *Id.* at 106-107.

Luis Hidalgo. A new certificate of title, TCT No. T-7660, covering Lot 1, was issued to Marcial Pimentel. TCT No. T-7660 was later cancelled, and TCT No. T-14489, issued in the names of respondent and her sister Sylvia Pimentel.³

The original lot was surveyed from June 2 to 5, 1950 on behalf of Froilan Pimentel, her grandfather. It was approved by Director of Lands Zoilo Castrillo on March 25, 1954. Even before the survey, her predecessors-ininterest had already been in open, continuous, public, adverse and notorious possession of said lot since time immemorial.⁴

She and her sister continued to possess their portion of the lot covered by TCT No. T-14489. Subsequently, however, up until 26.0972 hectares of the entire parcel were subjected to agrarian reform.⁵

In 1995, typhoon "Rosing" which devastated the Province of Camarines Norte. It caused the water of the Daet River to "*cut through the northern boundaries of the lot, then identified in the original map, as points 93 and 94, and (exit through) the areas between points 97, 98 and 99 on the Southeastern boundaries.*" As a result, the river abandoned its original course and created the new course.⁶

Pursuant to the agrarian reform program, the Department of Agrarian Reform (DAR) surveyed their property and caused it to be subdivided into smaller lots. They retained some of these lots, thus:

"x x x. Shown in the survey are the different lots after subdivision and the new course of the Daet River which divided the northeastern portion of the land of the plaintiffs identified in the map as Lot 25 with an area of 41,6621 (sic) square meters. This is now named by the plaintiff as "isla suhay". The area occupied by the new course of the Daet River is 37,877 square meters, identified in the map as Lot 21."⁷

Annotations were made on TCT No. T-14489 to indicate the portions covered by the agrarian reform program and those retained by respondent and her sister. They retained Isla Suhay and the other portions. They engaged Agapito Yaba as caretaker thereof since 1975. Then they were dispossessed of these portions starting last week of

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³ *Id.* at 107.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 108.

⁷ *Id.*

August 2011, when petitioner, taking advantage of her physical absence from the property (as she was taking care of her very sick father), through strategy and stealth, occupied Isla Suhay.

Petitioner cleared a portion thereof and constructed thereon a “shade house” and other structures. He also put up a fence made of bamboo along the bank of Daet River’s new bed. Too, he employed force and intimidation to prevent the caretaker, and later, respondent herself, from entering Isla Suhay. He even opened Isla Suhay to the Boy Scouts of the Philippines where the latter held a Jamboree from September 11 to 15, 2011. He did so without her knowledge and consent. She only came to know of petitioner’s unlawful entry when she returned to Daet sometime in March 2012 after her father’s death.⁸

Petitioner continuously made improvements on the property. He was setting up the area for a commercial/recreational activity. Petitioner had constructed a road that linked the provincial road to his own property, Lot 1254. Verbal demands were made on petitioner to vacate but he refused. On May 23, 2012, she, through counsel, made a formal demand on petitioner to vacate under Letter dated May 17, 2012. Despite receipt of the letter, petitioner still refused to vacate.⁹

She also resorted to the process under the Katarungang Pambarangay law but to no avail.¹⁰

In his answer, petitioner essentially averred: He and his predecessors-in-interest had been in possession of the property as early as the 1920’s. The survey conducted by respondent’s predecessor-in-interest in 1963 was done without notice to his predecessors-in-interest. Correspondingly, OCT No. O-240 was fraudulently issued to respondent’s predecessors-in-interest because they were not in actual and physical possession of the land when they applied for registration.¹¹

What respondent was claiming possession of was the northern portion of the Daet River and river bank bounded respondent’s south and southeast portion of the lot. He was the owner and actual possessor since time immemorial of the land across the river known as Isla Suhay. The lot was designated as Lot 1255 owned by his grandfather Valeriano Boma. Per Cadastral Plan dated September 16, 1963, Valeriano Boma’s land was situated beside the Daet River. Lot

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⁸ *Id.* at 109.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 165

1255 was originally part of a 16-hectare land covered by Tax Declaration No. 11889 issued on July 27, 1961 in the name of Valeriano Boma. On July 14, 1976, Valeriano Boma sold him a portion of the property with an area of 3.4736 hectares. This portion was identified as Lot 187-D. He had Lot 187-D declared in his name and applied for a home patent therefor on July 2, 1976. It was Valeriano Boma who actually occupied Lot 187-D throughout his lifetime even after Lot 187-D had already been transferred to petitioner's name. Petitioner further argued that the municipal circuit trial court had no jurisdiction over the case because he had been in possession of the property for more than fifty-one (51) years.¹²

Ruling of the Municipal Circuit Trial Court (MCTC)

By Decision¹³ dated April 11, 2013, the MCTC - San Lorenzo Ruiz-San Vicente, Camarines Norte ruled in respondent's favor. It made the following findings: 1) the complaint sufficiently established the jurisdictional allegations *i.e.* in the last week of August 2011, petitioner entered Isla Suhay through strategy and stealth; 2) being a co-owner, respondent may still initiate the complaint on her own right, without need of impleading her sister since the complaint anyway redounded to the benefit of the co-ownership; 3) at the time the property was registered in 1962, respondent's predecessor-in-interest, Marcial Pimentel had been in possession of the property for more than seventy (70) years; 4) after Marcial Pimentel sold Lot 2 originally covered by OCT No. O-240, he retained possession of Lot 1, which he eventually passed on to respondent and her sister; 5) Lot 1 got registered under TCT No. T-14489 in the names of respondent and her sister; 6) after TCT No. T-14489 was subjected to the agrarian reform program, portions thereof were distributed to the beneficiaries. Isla Suhay, however, was retained by respondent and her sister; 7) the fact that Daet River changed its course and altered the landscape does not mean that respondent and her sister lost possession of, much less, ownership of Isla Suhay, a titled property; and 8) respondent and her sister had been in peaceful possession of Isla Suhay until August 2011 when petitioner stealthily entered the property and deprived them of its possession.

Consequently, the MCTC decreed:

WHEREFORE, premises considered judgment is hereby rendered:

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¹² *Id.* at 166.

¹³ Penned by Judge Evan D. Dizon, *id.* at 163-174.

1. Ordering the defendant, his agents, representatives or anyone acting under him or in his behalf to vacate the premises known as “Isla Suhay” of Lot 25 of Subdivision Plan of Lot 1, Psu-134908, remove the structures he built thereon and peacefully turn over the possession thereof to the plaintiff;
2. Ordering the defendant to pay plaintiff reasonable rentals for the use and occupation of the premises in the amount of P1,000.00 per month from the date of illegal entry in August 2011 until the defendant finally vacated the premises;
3. Ordering the defendant to pay the costs of the suit.

SO ORDERED.¹⁴

Ruling of the Regional Trial Court

On petitioner’s appeal, RTC-Branch 38, Daet, Camarines Norte reversed through its Decision¹⁵ dated November 28, 2013. The RTC reasoned that the MCTC erred in not ordering a relocation survey so as to sufficiently establish the identity of the property in dispute. There was a need to know the exact location and metes and bounds of the property. An ocular inspection was not enough. The RTC directed, thus:

WHEREFORE, the present appeal is PARTIALLY GRANTED. The Decision of the Municipal Circuit Trial Court (MCTC) of San Lorenzo Ruiz – San Vicente, Camarines Norte dated April 11, 2013 in Civil Case No. 391 is REVERSED and SET ASIDE and herein appellee’s Complaint for forcible entry is DENIED. For lack of sufficient proof, appellant’s prayer for the grant of his counterclaims is likewise DENIED.

SO ORDERED.¹⁶

Respondent’s motion for reconsideration¹⁷ was denied under Order¹⁸ dated February 10, 2014.

Proceedings before the Court of Appeals

On petition for review, respondent argued in the main: 1) the RTC incorrectly concluded that Lot 25 or Isla Suhay was the same as

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¹⁴ *Id.* at 174.

¹⁵ Penned by Judge Roberto A. Escaro.

¹⁶ *Rollo*, p. 40.

¹⁷ *Id.* at 180-191.

¹⁸ *Id.* at 193-196.

petitioner's Lot 187 or 1255; 2) there was nothing on record showing that Isla Suhay was equivalent to petitioner's Lot 187 or 1255; 3) she was able to identify with sufficient particularity the property and the same was even confirmed by the MCTC during the ocular inspection; 4) petitioner was the one who refused to have the relocation survey done on their respective properties; 5) per survey conducted by DAR from July 14 to 17, 2007, Isla Suhay belonged to her; 6) she, her sister, and their predecessors-in-interest had prior physical possession of Isla Suhay; and 6) the RTC's ruling that Isla Suhay was the same as petitioner's Lot 187 or 1255 amounted to a collateral attack against the certificate of title registered in her name and her sister's.¹⁹

On the other hand, petitioner riposted: a) registration of the property under the Torrens system did not vest ownership thereof in respondent and her sister, nor their predecessors-in-interest; b) even before the typhoon in 1995, he had already been in continuous and uninterrupted possession of the lot for thirty-six (36) years, thus, he had acquired ownership of the lot by acquisitive prescription; c) as proof of his ownership, he had paid taxes thereon; d) respondent failed to prove that Isla Suhay originally formed part of her property before it got separated by the change of the course of Daet River; e) assuming that Isla Suhay indeed got separated from the rest of respondent's property, the complaint was already barred by prescription because in instances of avulsion, the owner of the separated property has two (2) years to recover it. Here, more than two (2) years had elapsed after the 1995 typhoon; and f) respondent and her sister could not have been in constructive possession of Isla Suhay because they were unaware of its existence prior to 1995.²⁰

Ruling of the Court of Appeals

By its assailed Decision²¹ dated June 3, 2015, the Court of Appeals reinstated the MCTC's decision. It affirmed the MCTC's finding that it was respondent and her sister who had prior physical possession of Isla Suhay, thus, they rightfully initiated the complaint for forcible entry against petitioner.

Petitioner's motion for reconsideration²² was denied under the assailed Resolution²³ dated February 3, 2016.

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¹⁹ *Id.* at 68-102.

²⁰ *Id.* at 241-310.

²¹ Penned by Associate Justice Jane Aurora C. Lantion with the concurrence of Associate Justices Magdangal M. De Leon and Nina G. Antonio-Valenzuela, all members of the Eighth Division, *id.* at 39-48.

²² *Id.* at 279-310.

²³ *Id.* at 50-51.

The Present Petition

Petitioner now seeks affirmative relief via Rule 45 of the Rules of Court. He essentially argues that the RTC was correct in ruling that respondent was not able to identify the property subject of the complaint. He also reiterates his argument that he had prior physical possession of Isla Suhay.²⁴

For her part, respondent essentially reiterates her argument that she and her sister, as well as their predecessors-in-interest, have always been in possession of Isla Suhay. Their possession continued even though Isla Suhay got separated from the rest of their property due to Daet River's change of course.²⁵

Petitioner's reply echoes his arguments in the petition.²⁶

Ruling

We affirm.

What really defines a piece of land is not the area mentioned in its description, but the boundaries laid therein, as enclosing the land and indicating its limits. But in controversial cases where there appears to be an overlapping of boundaries, the actual size of the property gains importance. Additionally, the identity of the land sought to be recovered may be established through its survey plan.²⁷ Here, the MCTC relied on multiple land surveys, including the 2007 DAR Subdivision Plan – the most recent survey which reflects the current topography of the land - in concluding that Isla Suhay was covered by respondent's TCT No. T-14489.

Since respondent and her sister are the registered owners of Isla Suhay, they are entitled to be secure in their possession thereof. It is settled that a Torrens title is evidence of indefeasible title to property in favor of the person in whose name the title appears. It is conclusive evidence with respect to the ownership of the land described therein. It is also settled that the titleholder is entitled to all the attributes of ownership of the property, including possession.²⁸

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²⁴ *Id.* at 24-36.

²⁵ *Id.* at 321-339.

²⁶ *Id.* at 342-348.

²⁷ See *Notarte v. Notarte*, 693 Phil. 534, 565 (2012).

²⁸ *Urieta vda. De Aguilar v. Alfaro*, 637 Phil. 131, 142 (2010).

For a court to restore possession, two (2) things must be proven in a forcible entry case: prior physical possession of the property and deprivation of the property by means of force, intimidation, threat, strategy, or stealth. Possession de facto and not possession de jure is the only issue in a forcible entry case. This rule holds true regardless of the character of a party's possession, provided that he or she has in his or her favor priority in time. As used in forcible entry and unlawful detainer cases, 'possession' refers to "physical possession, not legal possession in the sense contemplated in civil law."²⁹ If plaintiff can prove prior physical possession in himself or herself, he or she may recover such possession even from the owner, but, on the other hand, if he or she cannot prove such prior physical possession, he or she has no right of action for forcible entry even if he or should be the owner of the property.³⁰

Here, respondent was able to sufficiently prove that she and her sister had prior physical possession of Isla Suhay. On this score, MCTC lucidly decreed:

x x x. In the case under consideration, it cannot be said that the defendant was exercising adverse possession over the disputed property because the plaintiff and his (sic) predecessor-in-interest appeared to have enjoyed their open, public and notorious possession of the property peaceably since the time the original certificate of title was issued in 1963. No one appeared to have disturbed them until August 2011 when defendant entered the same without the knowledge and consent of the plaintiff. If the contention of the defendant were to be believed that he was in prior possession of the subject property since the time the same was sold to him by his grandfather Valeriano Boma on July 14, 1976, then an action surely would have arose between him and the titled owner regarding that property but there was none. Controversy arose only when he entered the subject property in August 2011. In fact, the acts of the plaintiff in seeking a meeting with the defendant before the DENR and the Barangay regarding the entry of the defendants in the subject property are manifestations that her peaceable possession of the subject property was disturbed. Similarly before this incident happened, the material possession by the plaintiff of the subject property is evident when in March 2009 she instructed her representative Clyde Abogado to investigate and bring the matter to the attention of the DENR about the illegal cutting of a tree inside "Isla Suhay".³¹

So must it be.

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²⁹ *Villondo v. Quijano*, 700 Phil. 18, 28 (2012).

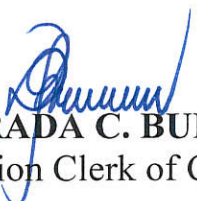
³⁰ *Ocampo v. Dionisio*, 744 Phil. 716, 727-728 (2014).

³¹ *Rollo*, pp. 173-174.

WHEREFORE, the petition is **DENIED**, and the assailed Decision dated June 3, 2015 and Resolution dated February 3, 2016 of the Court of Appeals in CA-G.R. SP No. 134402, are **AFFIRMED**.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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