

FIRST DIVISION

[G.R. No. 217576, January 20, 2020]

**PATRICK G. MADAYAG, PETITIONER, VS. FEDERICO G. MADAYAG,
RESPONDENT.**

D E C I S I O N

REYES, J. JR., J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assailing the Decision^[2] dated October 31, 2014 and the Resolution^[3] dated February 24, 2015 of the Court of Appeals (CA) in CA G.R. SP No. 134040, which reversed the Decision^[4] dated August 3, 2012 of the Regional Trial Court (RTC) of Baguio City in Civil Case No. 7567-R and accordingly, reinstated the Judgment^[5] dated January 6, 2012 of the Municipal Trial Court in Cities (MTCC) of Baguio City in MTCC Case No. 13478.

The Facts

Patrick G. Madayag (Patrick), Federico G. Madayag (Federico), Dionisio Madayag (Dionisio), Arthuro Madayag (Arthuro), Lourdes Madayag Dennison (Lourdes), and Carlos Madayag (Carlos) are all children of the spouses Anatalio Madayag (Anatalio) and Maria Consuelo Madayag (Maria Consuelo).^[6]

Anatalio was an employee of John Hay Air Base during his lifetime. As such, he was allowed to occupy a parcel of land in a housing facility for John Hay Air Base's employees located at Lot 24, Block 7, Scout Barrio Housing Project, Baguio City with an area of 493 square meters. Anatalio built a residential building thereon which served as the family home. Notably, said housing facility was under the jurisdiction of the Bases Conversion Development Authority (BCDA).^[7]

After their father and mother passed in 1979 and 1994, respectively, or on February 7, 1994, the siblings agreed to execute a Deed of Adjudication of Real Property and Quitclaim, whereby Federico, along with his brothers Dionisio, Arthuro, and Carlos waived and relinquished their interest in the property in favor of Patrick and their sister, Lourdes, who is an American citizen.^[8]

Sometime in 2002, BCDA issued a Certificate of Lot Award in favor of the "Heirs of Anatalio F. Madayag." This Certificate was, however, cancelled and corrected as attested to by Bobby Akia, an officer of the Land and Asset Development Division of the John Hay Management Corporation, by virtue of the said Deed.^[9] Consequently, on March 20, 2006, a Certificate of Lot Award was issued by the BCDA solely in favor of Patrick, and his named co-owner in the Deed, Lourdes, being an American citizen. By virtue

thereof, BCDA sold the parcel of land to Patrick per Deed of Absolute Sale dated March 4, 2009. Two days later, or on March 6, 2009, the subject parcel of land was registered under Patrick's name as evidenced by Transfer Certificate of Title (TCT) No. 98257.^[10]

On November 5, 2010, Patrick filed a Complaint for Forcible Entry and Damages against Federico, averring that after the subject property was adjudicated by the siblings to him and their sister, Lourdes, he took possession of the same and made improvements thereon, making it his residence whenever he goes to Baguio City from the United States of America (USA). He, however, learned later on that Federico entered and occupied the subject property without his permission. When he came back from the USA sometime in March 2010, he tried to settle the matter with his brother, but instead of apologizing, Federico threatened Patrick with bodily harm if he comes back to Baguio.^[11]

For his part, Federico averred in his Answer with Special and Affirmative Defenses that the subject property is an ancestral and family home put up by their parents; that upon the death of their parents, he and his siblings became co-owners thereof; that the Deed of Adjudication of Real Property and Quitclaim was agreed upon by the siblings to be executed merely for the purpose of facilitating the award and titling of the property, with the clear understanding that the same will remain to be their ancestral and family home to be enjoyed by any of the siblings including their respective families. Federico further averred that Patrick cannot invoke that he was in prior physical possession of the property when he never possessed the property exclusively on his own. Neither was it right for Patrick to claim that he was the one who introduced the improvements in the subject property when it was their sister, Lourdes, who primarily provided therefor.^[12]

The MTCC Ruling

In a Judgment dated January 6, 2012, the MTCC dismissed Patrick's Complaint, ruling that he failed to sufficiently allege, much less prove, an essential element of a forcible entry case, *i.e.*, that he had prior physical possession of the property. Further, the MTCC found the Complaint lacking of allegations that Patrick was dispossessed of the subject property by force, intimidation, threats, strategy, or stealth. In fact, the allegations in the Complaint showed that the alleged dispossession of the property was not done, if at all, by any of the means above-cited. The MTCC disposed, thus:

WHEREFORE, premises considered, this case is hereby *dismissed*.

No pronouncement as to costs.

SO ORDERED.^[13]

The RTC Ruling

On appeal, the RTC reversed the MTCC's Judgment, finding that the Complaint sufficiently alleged Patrick's prior possession of the property, as well as that he was dispossessed thereof by Federico through stealth. Specifically, the RTC ruled that Patrick's allegation that he "took possession of the house and made improvements, using the same as his residence whenever he comes up to Baguio" after the siblings executed the Deed of Adjudication of Real Property and Quitclaim in his and Lourdes'

favor, was sufficient allegation of prior possession. Likewise, according to the RTC, Patrick's allegation that Federico "entered and occupied the house" without the former's knowledge and consent, "taking advantage of [his] absence" is a sufficient allegation of stealth or strategy.

Moreover, the RTC ruled that both elements of forcible entry were proven by Patrick's evidence. The RTC held that prior physical possession does not only mean actual or physical possession, but also possession acquired by juridical acts, which in this case was through the adjudication of the subject property to Patrick and Lourdes, and the subsequent registration thereof in Patrick's name. That it was by means of stealth that Patrick was dispossessed of the property was also proven by his allegation that he discovered Federico's possession and occupation thereof only upon his return from the USA. Thus:

WHEREFORE, all premises duly considered, the Decision of the first level court in Civil Case No. MTCC Case No. 13478 is hereby reversed and set aside.

The [respondent], Federico G. Madayag, his predecessors-in interest, and all persons under him are hereby ordered to vacate the property subject matter of this case located at No. 63 Scout Barrio Housing Project, Baguio City, and to peacefully turn-over possession thereof to [petitioner], Patrick G. Madayag.

SO ORDERED.^[14]

Federico's motion for reconsideration was denied by the RTC in its Order^[15] dated March 14, 2013.

The CA Ruling

In its assailed Decision, the CA reversed the RTC Decision and reverted to the MTCC Judgment, emphasizing on the essential elements of a forcible entry suit, which must be sufficiently alleged and proved. The CA ruled that when the law speaks of prior physical possession in forcible entry cases, the law speaks of possession *de facto* as distinguished from possession *de jure*. Citing jurisprudence, the CA also held that a complaint for forcible entry should also specify what made the activities alleged therein illegal and what made the entry unlawful.

In reviewing the allegations in the Complaint, the CA found that the allegation of prior physical possession therein does not satisfy the requirement in forcible entry cases. The CA found no allegation that Patrick physically possessed the property and was ousted therefrom by Federico through force, intimidation, threat, strategy or stealth. The CA emphasized that the claim of prior physical possession by virtue of absolute ownership, or possession as an attribute of ownership, is not the same as actual possession or possession *de facto*. Further, Patrick failed to allege how he was deprived of possession of the property by Federico as he simply stated that the latter entered and occupied the house, without specifying how and when entry and possession was effected.

In addition, the CA sustained the alleged agreement among the siblings, invoked by Federico, that the subject property remains to be the ancestral and family home which

could be freely used by any member of the family. One of their brothers, Dionisio, executed an affidavit attesting to such agreement. The Certificate of Lot Award issued by the BCDA, proving that the subject parcel of land was awarded to the "Heirs of Anatalio F. Madayag" was also presented.

The CA, therefore, ruled:

WHEREFORE, the Decision dated August 3, 2012 and Order dated March 14, 2013 of the Regional Trial Court are reversed and set aside. The Judgment dated January 6, 2012 of the Municipal Trial Court in Cities is reinstated.

SO ORDERED.

The Issue

Did the CA err in reinstating the MTCC Judgment dismissing Patrick's complaint for forcible entry?

The Court's Ruling

We answer in the affirmative.

The invariable rule is that what determines the nature of the action, as well as the court has jurisdiction over the case, are the allegations in the complaint.^[16] In ejectment cases, the complaint must state and sufficiently show on its face the essential facts laid down under Section 1, Rule 70 of the Rules of Court, to give the court jurisdiction without resort to parol evidence.

The above-cited provision requires that in action for forcible entry, as in this case, it must be alleged that the complainant was deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, and that the action was filed anytime within one year from the time the unlawful deprivation of possession took place,^[17] except that when the entry is through stealth, the one-year period is counted from the time the complainant learned of the dispossession.^[18] It is not necessary, however, for the complainant to utilize the language of the statute.^[19] It would suffice that the facts are set up, showing that complainant has prior physical possession of the property in litigation and that he was dispossessed thereof through defendant's unlawful act/s constituting force, intimidation, threat, strategy, or stealth.^[20]

It is imperative, thus, to carefully scrutinize the allegations in the Complaint to determine whether the required jurisdictional averments were complied with. Pertinent portions thereof are quoted herein, viz.:

3. [Patrick] is an owner of a 493[-]square[-]meter parcel of land, known as Lot 24, Block 7, located at No. 63 Scout Barrio Housing Project, Baguio City, having acquired the same from Bases Conversion Development Authority (BCDA). Copy of the Deed of Sale and Certificate of Title are hereto attached[.]

4. Standing on the lot is a one-storey residential house which was the subject of a DEED OF ADJUDICATION OF REAL PROPERTY AND QUITCLAIM

dated February 4, 1994 in favor of [Patrick] and his sister, Lourdes M. Dennison, an American citizen. Copy of the deed is hereto attached[.]

5. Thereafter, [Patrick] took possession of the house and made improvements, using the same as his residence whenever he comes up to Baguio.

6. Lately[,] however, [Patrick] learned that [Federico] has been frequenting [Patrick's] house at #63 Scout Barrio, Baguio City without even bothering to seek permission from [Patrick].

7. Subsequent thereto, without knowledge and consent of [Patrick], taking advantage of [Patrick's] absence, [Federico] entered and occupied the house at #63 Scout Barrio, Baguio City.

8. Upon his return from the United States in March of 2010, [Patrick] came to know of [Federico's] act, and as any brother would do, tried to settle the matter with [Federico].

9. But instead of apologizing for his unlawful act, [Federico] had the arrogance of even threatening [Patrick] with bodily harm if he comes up to Baguio, an incident which was reported by [Patrick] to the Baguio Police.^[21] (Emphases supplied)

Clearly, the Complaint sufficiently stated the essential elements of an action for forcible entry. Patrick clearly alleged that upon adjudication of the property to him and Lourdes in 1994, he took possession thereof, made improvements therein, and used the same as his residence every time he goes to Baguio. Patrick also alleged that Federico entered and occupied the property without the former's knowledge and consent. Federico's entry and occupation *as alleged*, therefore, was effected clandestinely and consequently, his possession thereof is by stealth.^[22] Notably, there was no question that the Complaint was filed within a year from Patrick's discovery of Federico's unlawful entry in the subject property.

The question now is whether Patrick was able to prove these allegations of prior physical possession of the subject property and dispossession thereof by Federico through stealth.

We likewise answer in the affirmative.

The only question that courts must resolve in an ejectment case is who between the parties is entitled to the physical or material possession of the property in dispute. The main issue is possession *de facto*, independent of any claim of ownership or possession *de jure*.^[23] Thus, courts should base their decision on who had prior physical possession of the premises under litigation.^[24]

As a rule, "possession" in forcible entry cases refers to nothing more than prior physical possession or possession *de facto*, not possession *de jure* or that arising from ownership. Title is not an issue. The Court has, however, consistently ruled that possession can be acquired not only by material or actual 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.^[25]

In *Quizon v. Juan*,^[26] the Court explained:

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. (Citations omitted)

L In the case of *Mangaser v. Ugay*,^[27] the Court also held that the plaintiff therein, who is the registered owner of the property in dispute, acquired possession thereof by juridical act, specifically, through the issuance of a free patent under Commonwealth Act No. 141 and its subsequent registration with the Register of Deeds. The Court ruled that if such juridical acts to obtain prior possession would be disregarded, then it would create an absurd situation. It would be putting premium in favor of land intruders against Torrens title holders, who spent months or even years, in order to register their land, and who religiously pay their taxes thereon.^[28]

Also cited in *Mangaser* is the case of *Habagat Grill v. DMC-Urban Property Developer, Inc.*,^[29] wherein the Court gave weight to the prior possession of the registered owner's predecessor-in-interest as evidenced by the execution and registration of public instruments for such purpose to rule in favor of said registered owner's prior possession.

In this case, it is undisputed that Patrick is the registered owner of the subject property. The subject property was awarded solely to Patrick, as evidenced by the Certificate of Lot Award dated March 20, 2006. By virtue of said award, the subject property was sold to Patrick as evidenced by the Deed of Absolute Sale dated March 4, 2009. On March 6, 2009, the subject property was registered under Patrick's name as evidenced by TCT No. 98257. Certainly, a right to the possession of the property flows from Patrick's ownership thereof. Well-settled is the rule that a person who has a Torren's title over the property is entitled to the possession thereof.^[30]

On the other hand, the CA heavily relied upon the affidavit executed by one of the siblings, Dionisio, stating to the effect that there was a verbal agreement among the siblings that the subject property remains to be an ancestral home which can be used by any of them, in ruling in favor of Federico. Notably, aside from said affidavit, no other evidence was presented to support Federico's claim that his entry and possession of the subject property registered in Patrick's name was not unlawful.

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.^[31]

We are also one with the RTC in ruling that Patrick was dispossessed of the subject property by Federico through stealth. As correctly observed by the RTC, Federico's entry in the premises of the subject property without the consent and knowledge of the registered owner, who was abroad at that time, clearly falls under stealth, defined in our jurisprudence 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."^[32]

Lastly, that the action was filed within one year from Patrick's discovery of the forcible entry was undisputed in this case.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated October 31, 2014 and the Resolution dated February 24, 2015 of the Court of Appeals in CA-G.R. SP No. 134040 are **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated August 3, 2012 of the Regional Trial Court of Baguio City in Civil Case No. 7567-R is hereby **REINSTATED**.

SO ORDERED.

Caguioa (Acting Chairperson), Lazaro-Javier, Inting,^[] and Lopez, JJ., concur.*

^[*] Additional member per Raffle dated January 20, 2020 in lieu of Chief Justice Diosdado M. Peralta.

^[1] *Rollo*, pp. 11-26.

^[2] Penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Francisco P. Acosta and Myra V. Garcia-Fernandez, concurring; *id.* at 28-42.

^[3] *Id.* at 44.

^[4] *Id.* at 46-51.

^[5] *Id.* at 52-60.

^[6] *Id.* at 29.

^[7] *Id.*

^[8] *Id.*

[9] Id. at 50.

[10] Id. at 30.

[11] Id. at 30-31.

[12] Id. at 31-32.

[13] Id. at 60.

[14] Id. at 51.

[15] Id. at 75-78.

[16] *Javier v. Lumontad*, 749 Phil. 360, 368 (2014).

[17] Id.

[18] *Diaz v. Spouses Punzalan*, 783 Phil. 456, 462 (2016).

[19] *Dela Cruz v. Hermano*, 757 Phil. 9, 18 (2015).

[20] *Javier v. Lumontad*, *supra*.

[21] *Rollo*, pp. 121-123.

[22] *Diaz v. Spouses Punzalan*, *supra* note 18 and *Dela Cruz v. Hermano*, *supra* note 19.

[23] *Echanes v. Spouses Hailar*, 792 Phil. 724, 732 (2016).

[24] *Muñoz v. Atty. Yabut, Jr.*, 665 Phil. 488, 517 (2011).

[25] *Mangaser v. Ugay*, 749 Phil. 372, 382 (2014).

[26] 577 Phil. 470, 480 (2008).

[27] *Supra* note 25.

[28] Id. at 386.

[29] 494 Phil. 603 (2005).

[30] *Mangaser v. Ugay*, *supra* note 25, at 385.

[31] Id. at 386.

[32] *Diaz v. Spouses Punzalan*, *supra* note 18.



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