

FIRST DIVISION

[G.R. No. 241701, September 16, 2020]

MR. & MRS. JOSE ALCANTARA, MR. & MRS. NICOLAS ALCANTARA, HENEDINA AMISTAD, TEOFILA AMISTAD, MR. & MRS. ANTONIO AMORIN, MR. & MRS. EMILIANA ANINIPOT, SPOUSES FORTUNATO ATON, JR., SPOUSES JUN & DELIA BADIC, MR. & MRS. EDUARDO BANGA, MR. & MRS. ROBERTA BAUTISTA, SPOUSES RODRIGO & PERLA BOSTON, SPOUSES VICENTE & CATHY CARTAGENA, SPOUSES JOSEPH & EVANGELINE DELA CRUZ, SPOUSES JOSE & SAYCENA DELA TORRE, SPOUSES BETO & FLAVIA DIGAO, MR. & MRS. ROSALIA GADAT, SPOUSES EDGARDO & LOVE GASATAN, MR. & MRS. JUDITH GASATAN, SPOUSES ALLAN & ANNALISA GONZALES, SPOUSES HARON & SARAPIYA PASOD, SPOUSES PEDRO & LILY IDPAN, JR., SPOUSES LORETO & HELEN JANDAYRAN, SR., SPOUSES AMEEL & BAILAGA JAPLOS, SPOUSES FRED & ELENA LANO, MR. & MRS. JUANITA LIMURAN, MR. & MRS. BONIFACIO LUBATON, MR. & MRS. ANTONIO BELARMINO, MR. & MRS. BUENAVENTURA MADRIGAL, SPOUSES RUBEN & LINDA BACUS MANGLICMOT, MR. & MRS. ARSENIA MILLENA, SPOUSES FELICIANO & GRACE NAVALES, SPOUSES FRANCISCA ONDOY, MR. & MRS. CARLOS ONRAS, MR. & MRS. TEODORA PAGAYON, SPOUSES DENNIS & ALICIA PASCUA, DELFIN PEREZ, MAXIMA LUMACAD, SPOUSES SEGUNDO & HERMOGINA REVILLA, MR. & MRS. GRACE MALACROTA, SPOUSES JESUS & GERTRUDES SAGAYNO, ADORACION SANIEL, MR. & MRS. ERNING PALARDO, SPOUSES BINGCONG SIA SU, MONDISA RODRIGUEZ, MR. & MRS. LETTY SILAO, MR. & MRS. HILDA AMADOR, SPOUSES ARMAN & LORNA AMADOR, SPOUSES ANTONIO & LOURDES AMADOR, JR. SPOUSES ALBERTO & REMEDIOS AMADOR, SPOUSES LORENZO & LUISA AMPARADO, SPOUSES RAUL & VILMA APUSAGA, SPOUSES MIGUELA BACAISO, SPOUSES JAMES BERNASOR, SPOUSES HENRY & ADELA BUSTAMANTE, SPOUSES LEONARDO & LEONESSA CARTAGENA, SPOUSES TOTO & FRANCISCA CELIS, SPOUSES AURELIO & NORA DEMATAIS, SPOUSES ROSENDO & DAHLIA DEMATAIS, SPOUSES CHARLIE & LAARNI EMBALZADO, SPOUSES DALTON & ERLINDA ESPINO, SPOUSES ROMEO & ELIZABETH GABINAY, SPOUSES EDGAR & JOSIE GADAT, MR. & MRS. CANDIDA GONZALES, SPOUSES NOLI & ELNA GRADAS, SPOUSES DULCISIMO & ROSITA JAVIER, SPOUSES LEONILA JIMENA, SPOUSES JOSEPH LAUREN, SPOUSES ROLANDO & LUCRETIA LAUREN, SPOUSES ALLAN & SITTIE MACABANTOG, SPOUSES BONIFACIO & ISABELITA MORCILLO, SPOUSES CLEMENTE & TESSIS NOMEN, SPOUSES APOLONIA & JAMIE MUÑEZ, AND MR. & MRS. EPIFANIO PALACIOUS, PETITIONERS, VS. DELIA DUMACON-HASSAN, SALAMA DUMACON- MENDOZA,

**ABDUL DUMACON, BAILYN DUMACON-ABDUL, ALL REPRESENTED
BY DELIA DUMACON-HASSAN AS ADMINISTRATOR AND
ATTORNEY-IN-FACT, RESPONDENTS.**

D E C I S I O N

REYES, J. JR., J.:

Assailed in this Petition for Review on *Certiorari*^[1] under Rule 45 of the 1997 Rules on Civil Procedure are the Decision^[2] dated December 7, 2017, and the Resolution^[3] dated July 19, 2018, both promulgated by the Court of Appeals Cagayan De Oro City (CA), in CA-G.R. SP No. 06154-MIN entitled "*Mr. & Mrs. Jose Alcantara, Mr. & Mrs. Nicolas Alcantara, Henedina Amistad, Teofila Amistad, Mr. & Mrs. Antonio Amorin, Mr. & Mrs. Emiliana Aninipot, Spouses Fortunato Aton, Jr., Spouses Jun & Delia Badic, Mr. & Mrs. Eduardo Banga, Mr. & Mrs. Roberta Bautista, Spouses Rodrigo & Perla Boston, Spouses Vicente & Cathy Cartagena, Spouses Joseph & Evangeline Dela Cruz, Spouses Jose & Saycena Dela Torre, Spouses Beto & Flavia Digao, Mr. & Mrs. Rosalia Gadat, Spouses Edgardo & Love Gasatan, Mr. & Mrs. Judith Gasatan, Spouses Allan & Annalisa Gonzales, Spouses Haron & Sarapiya Pasod, Spouses Pedro & Lily Idpan, Jr., Spouses Loreto & Helen Jandayran, Sr., Spouses Amelel & Bailaga Japlos, Spouses Fred & Elena Lano, Mr. & Mrs. Juanita Limuran, Mr. & Mrs. Bonifacio Lubaton, Mr. & Mrs. Antonio Belarmino, Mr. & Mrs. Buenaventura Madrigal, Spouses Ruben & Linda Bacus Manglicmot, Mr. & Mrs. Arsenia Millena, Spouses Feliciano & Grace Navales, Spouses Francisca Ondoy, Mr. & Mrs. Carlos Onras, Mr. & Mrs. Teodora Pagayon, Spouses Dennis & Alicia Pascua, Delfin Perez, Maxima Lumacad, Spouses Segundo & Hermogina Revilla, Mr. & Mrs. Grace Malacrota, Spouses Jesus & Gertrudes Sagayno, Adoracion Saniel, Mr. & Mrs. Erning Palardo, Spouses Bingcong Sia Su, Mondisa Rodriguez, Mr. & Mrs. Letty Silao, Mr. & Mrs. Hilda Amador, Spouses Arman & Lorna Amador, Spouses Antonio & Lourdes Amador, Jr. Spouses Alberto & Remedios Amador, Spouses Lorenzo & Luisa Amparado, Spouses Raul & Vilma Apusaga, Spouses Miguella Bacaizo, Spouses James Bernasor, Spouses Henry & Adela Bustamante, Spouses Leonardo & Leonessa Cartagena, Spouses Toto & Francisca Celis, Spouses Aurelio & Nora Dematais, Spouses Rosendo & Dahlia Dematais, Spouses Charlie & Laarni Embalzado, Spouses Dalton & Erlinda Espino, Spouses Romeo & Elizabeth Gabinay, Spouses Edgar & Josie Gadat, Mr. & Mrs. Candida Gonzales, Spouses Noli & Elna Gradas, Spouses Dulcisimo & Rosita Javier, Spouses Leonila Jimena, Spouses Joseph Lauren, Spouses Rolando & Lucretia Lauren, Spouses Allan & Sittie Macabantog, Spouses Bonifacio & Isabelita Morcillo, Spouses Clemente & Tessis Nomen, Spouses Apolonia & Jamie Muñoz, and Mr. & Mrs. Epifanio Palacious v. Delia Dumacon-Hassan, Salama Dumacon-Mendoza, Abdul Dumacon, Bailyn Dumacon-Abdul, all represented by Delia Dumacon-Hassan as Administrator and Attorney-in-Fact.*"

The facts, as established by the evidence presented by the parties, are as follows:

Respondents alleged that they are the owners of a parcel of land located in Lot 31, Block 24, Pls – 59, situated along the National Highway, Poblacion, Kidapawan City, containing an area of 43,881 square meters and covered by Transfer Certificate of Title (TCT) No. T-92084.^[4] Petitioners, on the other hand, are the actual occupants of the subject property who were classified into two groups: 1) *Group A* petitioners who are squatters, occupying the land by mere tolerance of respondents; and, 2)

Group B petitioners who are lessees of their respective portions of the land on a month to month basis, who failed to pay their rent.

Respondents asseverate that they repeatedly demanded petitioners to vacate the subject property, but to no avail. Thus, respondents endorsed their complaint against herein petitioners with the *Lupong Tagapamayapa of Barangay Poblacion* but no settlement was reached between the parties and certifications to file action were issued thereto.

Thus, respondents filed a complaint for unlawful detainer against the petitioners before the Municipal Trial Court in Cities (MTCC), Kidapawan City.

Group A petitioners denied respondents' allegations and claimed that they are the legal occupants of the respective portion of the subject property they are occupying by virtue of a sale of the same; while *Group B* petitioners denied receiving any notice to vacate or notice to pay rents.

Ruling of the MTCC

On February 10, 2010, the MTCC, Kidapawan City rendered a Decision^[5] in Civil Case No. 1307-02, dismissing the complaint against all the petitioners without prejudice to the filing of the proper complaint in the future, to wit:

In light of all the foregoing, this case is ordered **DISMISSED** without prejudice to the filing of appropriate similar action in the future should it is, still, (*sic*) [be] available. Defendants' counterclaims are likewise dismissed for failure to prove the same by preponderance of evidence.

SO ORDERED.

It ruled that the respondents failed to establish the elements of unlawful detainer since they did not allege and prove that they merely tolerated the occupation of *Group A* petitioners. Since the respondents alleged that they are *squatters* living illegally in the subject property, it had meant that *Group A* petitioners were occupying the same from the beginning. The lower court opined that "[t]o justify an action for unlawful detainer, the permission or tolerance must have been present at the beginning of the possession, for if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy."

For *Group B* petitioners, the MTCC declared that the respondents failed to effect notices to vacate and notice to pay rentals to the said group, which is a condition precedent to an action for unlawful detainer. Furthermore, in the notices, *Group B* petitioners were only given ten (10) days to vacate the subject property. The lower court enunciated that based on Section 2 of Rule 70, the lessor can proceed against the lessee only after fifteen (15) days, in case of land, from date of last notice to vacate the subject property.

Aggrieved, respondents filed their appeal before the Regional Trial Court (RTC),

Ruling of the RTC

On appeal, the RTC rendered a Decision^[6] dated July 5, 2010 in Civil Case No. 2010-12, affirming the dismissal of the case against *Group A* petitioners for lack of jurisdiction, while the dismissal of the case against *Group B* petitioners was reversed and set aside. It remanded the case back to the MTCC for reception of evidence to prove the respondents' cause of action against them,, as such:

From the foregoing, the assailed decision is partially affirmed. The dismissal of the case against defendants/appellees who are classified as Group "A" is affirmed for lack of jurisdiction. The dismissal of the case against defendants/appellees classified as Group "B" is reversed. The court a quo is directed to receive evidence from the plaintiffs/appellants to prove their cause of action against the latter group of defendants/appellees.

No pronouncements to costs.

SO ORDERED.

The RTC opined that the case filed against *Group A* petitioners is obviously a complaint for forcible entry, not unlawful detainer, based on the respondents' allegation that they are squatters over the subject property. Furthermore, for the MTCC to acquire jurisdiction in an action for forcible entry, it must be instituted within one year from the time of accrual of the cause of action. In the instant case, respondents had not alleged when they withdrew their tolerance of Group A petitioners' possession of the subject property or when these petitioners forcibly entered or squatted the property.

For *Group B* petitioners, the RTC found that the remedy availed of by the respondents partakes the nature of an action for unlawful detainer. The demand to vacate was made well within one year period prior to the filing of the instant case. The RTC stated that the 15-day rule mentioned in Section 2 of Rule 70 does not pertain to the number of days mentioned in the notice to vacate, but to the length of time lessees held their possession of the subject property after receipt of said notice.

Respondents moved for reconsideration of the Decision dated July 5, 2010 arguing that the RTC erred in remanding the case to the MTCC and should have proceeded to render its judgment.^[7]

In an Order dated May 27, 2013, the RTC granted the respondents' motion for reconsideration and reversed its earlier ruling. It affirmed the dismissal of the case against *Group B* petitioners on the ground that respondents failed to allege in their complaint the date when the month-to-month lease was terminated. Nonetheless, the RTC found that Section 8, Rule 40 of the Rules of Court is applicable and

considered the instant case as an action for recovery of possession. It required the respondents to pay additional docket fees based on the rules on docket fees as a condition precedent before proceeding to render judgment in the instant case.^[8]

Respondents moved for reconsideration of the Order dated May 27, 2013.

In its Decision^[9] dated October 31, 2013, the RTC ruled that it erred when it required the payment of additional docket fees as a condition before it proceeded to decide the case. The RTC in the instant case is exercising not its original jurisdiction, but its appellate jurisdiction pursuant to Section 22 of Batas Pambansa Blg. 129, as amended by Republic Act No. 7691. As respondent had already paid the docket fees in appealing the decision of the MTCC to the RTC, the latter had already acquired jurisdiction over the case. It also opined that the possession of *Group B* petitioners became illegal when they stopped paying rentals after the expiration of their month-to-month lease contract, after learning that a case was filed by Moises Sibug (Moises), Baldomero Bayawan (Baldomero) and Annaliza Anabieza (Annaliza) against Delia Hassan (Delia). Thus, in treating respondents' complaint as an action for recovery of possession, the RTC found that the respondents are entitled to recover the possession of the subject property. Furthermore, the RTC imposed P200.00 rental fee per month against petitioners for the use and enjoyment of the portions of the subject property they are currently occupying, respectively.

Petitioners filed a Motion for Reconsideration while respondents filed a motion for the issuance of a writ of execution, both of which were denied by the RTC.^[10]

Undaunted, the petitioners seasonably filed their appeal before the CA.

Ruling of the CA

In its Decision dated December 7, 2017, the CA affirmed the latest ruling of the RTC with modifications. It ordered the RTC to determine the proper docket fees to be paid in Civil Case No. 2010-12, which it deemed to be originally filed before the latter.

The CA found that the respondents paid the appeal fees under Rule 40 of the Rules of Court. However, the situation changed when the RTC, *motu proprio*, took cognizance of the case as an original action for recovery of possession and ruled on the merits.

Thus, the CA held that there is a need for respondent to pay additional docket fees to be determined based on the fair market value of the subject property. While non-payment of docket fees may render an original action dismissible, the rule on payment of docket fees may be relaxed whenever the attending circumstance warrants it.

The CA denied petitioners' motion for reconsideration.

Hence, this Petition.

The Issues