

FIRST DIVISION

[G.R. No. 234655, September 11, 2019]

JESSICA LIO MARTINEZ, PETITIONER, VS. HEIRS OF REMBERTO F. LIM, NAMELY: FABIANA TIMBANCAYA LIM, CHINITA LIM PE, MINYANI LIM BAYLOSIS, GENARO T. LIM, EMELINE LIM ANGELES AND BELINDA LIM VILLEGAS, REPRESENTED BY THEIR ATTORNEY-IN-FACT, JIM GERALD LIM PE, RESPONDENTS.

DECISION

BERSAMIN, C.J.:

The resolution of a boundary dispute - by reason of the issue therein being whether or not the contested portion pertained to one or the other of the parties - is not within the province of the summary action of forcible entry under Rule 70 of the *Rules of Court*. It can be taken proper cognizance of in the context of *accion reivindicatoria*.

The Case

The petitioner hereby appeals the decision promulgated on March 20, 2017,^[1] whereby the Court of Appeals (CA) affirmed the judgment rendered on April 29, 2015 by the Regional Trial Court (RTC), Branch 51, in Puerto Princesa City, Palawan ordering her and all other persons acting for and in her behalf to vacate the part of the premises covered by Tax Declaration No. 006-0515-A of the Assessor's Office of Coron, Palawan originally issued in the name of the heirs of Socorro Lim, and to turn over its peaceful possession to the respondents.^[2]

Antecedents

The factual and procedural antecedents of the case as summarized by the CA are as follows:

This case emanated from an action for Forcible Entry with Prayer for Issuance of Writ of Preliminary Injunction filed by herein respondents heirs of Remberto Lim against petitioner Jessica Lio Martinez.

Respondents are the heirs of Remberto Lim who, during his lifetime, owned, possessed, and cultivated a parcel of land located in Sitio Banga, Barangay VI, Coron, Palawan, designated as Assessor's Lot 065 and covered by Tax Declaration No. 006-0515-A.

Adjoining Remberto's land is the land of his brother - Jose Lim - registered under OCT No. E-9487 with an area of Twenty Eight Thousand and Six square meters (28,006 sqm.). It is worthy to note that per the technical description in said title, the property is bounded on both the east and west by the properties of the Heirs of Socorro Lim, which were later on acquired by the late Remberto Lim.

As it happened, Jose sold his land covered by OCT No. E-9487 to a certain Dorothy and Alexander Medalla who, thereafter, subdivided the same into two (2) smaller lots, designated as Lots 1 and 2. Lot 2 was further subdivided into nine (9) smaller lots, this time designated as Lots 2-A to 2-I, inclusive. Lots 2-D, 2-E and 2-F were thereafter sold to herein petitioner Martinez, pursuant to three (3) separate Deeds of Absolute Sale, and by virtue thereof, petitioner Martinez was issued TCT Nos. 065-2010000259, 065-2010000260, and 065-2010000261 in her favor.

On 10 August 2010, petitioner Martinez and her father entered into the property and uprooted some of the acacia mangium trees that were previously planted thereon by the late Remberto Lim and his son, Alan Lim. To further delineate their claimed property, petitioner fenced the same and placed signs thereon that read "NO TRESPASSING" and "NOTICE THIS PROPERTY IS OWNED BY THE MARTINEZ FAMILY."

Now then, claiming that petitioner had unlawfully encroached into a portion of their property, respondents, through counsel, sent a demand letter to petitioner demanding that she immediately remove the fence that she built on respondents' land as well as to turn over peaceful possession of that portion of property that petitioner intruded into. Unfortunately, the demand was ignored by petitioner, and respondents were constrained to file the instant complaint for Forcible Entry with Prayer for Issuance of Writ of Preliminary Injunction against petitioner before the Municipal Circuit Trial Court of Coron-Busuanga (MCTC)."

In its Decision dated 12 August 2014, the MCTC ordered petitioner, among others, to vacate and turn over peaceful possession of the disputed portion of property. In its ruling, the MCTC examined petitioner's title as well as those of her predecessors' and concluded that when the Medalla spouses subdivided Lot 2 into nine (9) smaller lots, they erroneously included a portion of Socorro Lim's property. Specifically, the MCTC noticed that in Jose Lim's title and the resultant titles issued to the Medalla spouses, their property was bounded on the east by Socorro Lim's property. However, in the titles for Lots 2-A to 2-I, inclusive, the properties became bounded on the east by Mabentangan Road, which was supposedly the eastern boundary of Socorro Lim's property. As such, despite petitioner's titles over the property, the MCTC awarded possession *de facto* to respondents and, consequently, ordered petitioner to immediately vacate and turn over peaceful possession of the disputed portion to the respondents.

On appeal by petitioner, the Regional Trial Court, Branch 51, Palawan and Puerto Princesa City (RTC) affirmed in toto the disposition of the MCTC. Petitioner then filed a Motion for Reconsideration thereof, but to no avail.

[3]

The petitioner timely filed an appeal.

Decision of the CA

In the now assailed decision,^[4] the CA opined that in ejectment cases, the better right of possession was primarily associated with the party who could prove prior physical possession of the property in dispute; that the respondents had the better

right of possession over the disputed portion on account of priority in time considering the following documents submitted as evidence by the respondents, namely: (1) tax declarations in the name of Remberto Lim, from whom the respondents had inherited the portion in dispute; (2) a Tree Plantation Record Form; and (3) the memorandum dated June 4, 1999 issued by the City Environment and Natural Resources Office (CENRO) of Coron, Palawan certifying that acacia mangium trees and mahogany species were planted by Remberto's son, Allan Lim, on the land covered by Tax Declaration No. 006-0515-A issued in the name of Remberto Lim; and that it was evident that neither Jose Lim nor the Medallas (Dorothy and Alexander), from whom the petitioner had derived her title, had dominion over the disputed portion, thus warranting the logical conclusion that said portion had been erroneously included in the titles issued to the Medallas.

The *fallo* of the decision of the CA reads:

WHEREFORE, foregoing considered, the Petition for Review is **DENIED**.
The Decision dated 29 April 2015 of the Regional Trial Court, Branch 51, Palawan and Puerto Princesa City is **SUSTAINED**.

SO ORDERED.^[5]

The petitioner moved for reconsideration but her motion to that effect was denied on October 5, 2017.^[6]

Hence, this appeal.

Issues

The petitioner poses the following issues,^[7] namely:

I.

THE COURT A QUO ERRED IN UPHOLDING THE TRIAL COURT'S PARTICULAR FINDING THAT RESPONDENTS SUPPOSEDLY HAVE A BETTER AND/OR SUPERIOR RIGHT OF POSSESSION OVER THE CONTESTED PROPERTIES, NOTWITHSTANDING THAT THE PETITIONER'S CLAIM OF OWNERSHIP OVER THE SUBJECT PROPERTIES IS SUPPORTED BY A TORRENS TITLE TO HER NAME;

II.

THE COURT A QUO ERRED IN UPHOLDING THE TRIAL COURT'S PARTICULAR FINDING THAT PETITIONER'S CERTIFICATES OF TITLE [SUPPOSEDLY] ENCROACHED ON THE RESPONDENTS' PUTATIVE PROPERTY;

III.

THE COURT A QUO ERRED IN UPHOLDING THE TRIAL COURT'S FINDING THAT RESPONDENTS ARE THE HEIRS OF THE DECEASED REMBERTO F. LIM, AND THAT THE PROPERTY BEING CLAIMED BY THEM BELONGS TO THE ESTATE OF THE SAID DECEASED;

IV.

THE COURT A QUO ERRED IN UPHOLDING THE VALIDITY OF THE COMPLAINT, NOTWITHSTANDING THE FAILURE OF ALL THE HEREIN RESPONDENTS, AS PLAINTIFFS IN THE FORCIBLE ENTRY CASE, TO SIGN THE REQUISITE CERTIFICATE OF NON-FORUM SHOPPING ATTACHED TO THE COMPLAINT; and

V.

THE COURT A QUO ERRED IN NOT FINDING THE RESPONDENTS GUILTY OF FORUM-SHOPPING, AND IN FAILING TO ORDER THE DISMISSAL OF THE COMPLAINT ON THIS ADDITIONAL GROUND.

In the resolution promulgated on February 21, 2018,^[8] the Court denied the petition for review on *certiorari* for its failure to sufficiently show that the CA had committed any reversible error in promulgating the assailed decision and resolution as to warrant the exercise of the Court's discretionary appellate jurisdiction.

Undaunted, the petitioner filed a motion for reconsideration arguing that the CA had grossly erred in refusing to acknowledge and recognize her Torrens titles as proof of her superior right to the possession of the disputed portion; and that the decision of the CA, like the previous decisions of the lower courts, constituted a quintessential collateral attack on her various certificates of title.

In a resolution promulgated on July 30, 2018,^[9] the Court granted the petitioner's motion for reconsideration; reinstated the appeal; and required the respondents to comment on the petition for review on *certiorari*.

The respondents submit in their comment that the land covered by TD No. 006-0515-A had been included in the titles issued to the petitioner who was consequently illegally and unlawfully occupying the same; that they were still the lawful owners of the land illegally and unlawfully included in the titles of the petitioner; that they had the better and superior rights of possession over the land covered by TD No. 006-0515-A; and that they substantially complied with the rules on certification on non-forum shopping.

Ruling of the Court

We find merit in the appeal.

Preliminarily, this Court discusses and distinguishes the three types of possessory actions sanctioned in this jurisdiction, namely; *accion interdictal*, *accion publiciana* and *accion reivindicatoria*.

Accion interdictal is a summary action that seeks the recovery of physical possession where the dispossession has not lasted for more than one year, and is to be exclusively brought in the proper inferior court.^[10] The issue involved is material possession or possession *de facto*.^[11] The action is either forcible entry (*detentacion*) or unlawful detainer (*deshhucio*). In forcible entry, the plaintiff is deprived of physical possession of real property by means of force, intimidation, strategy, threats, or stealth, but in unlawful detainer, the defendant illegally withholds possession of real property after the expiration or termination of his right to hold possession under any contract, express or implied. The two are distinguished from each other in that in forcible entry, the possession of the defendant is illegal from the beginning, and that the issue is which a party has prior *de facto*

possession, while in unlawful detainer, the possession of the defendant is originally legal but becomes illegal because of the expiration or termination of the right to possess.^[12] Both actions must be brought within one year from the date of actual entry on the land by the defendant in case of forcible entry, and within one year from the date of last demand in case of unlawful detainer.^[13]

The jurisdiction over these two summary actions lies in the proper Municipal Trial Court of the municipality or city within whose territory the property in dispute is located. Section 33 (2) of B.P. Blg. 129,^[14] as amended by Republic Act No. 7691, provides:

Section 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

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2. ***Exclusive original jurisdiction*** over cases of forcible entry and unlawful detainer: *Provided*, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

Accion publiciana is the second possessory action. It is a plenary action to recover the right of possession,^[15] and the issue is which party has the better right of possession (possession *de jure*).^[16] It can be filed when the dispossession lasted for more than one year.^[17] It is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and the action can no longer be maintained under Rule 70 of the *Rules of Court*. The objective of the plaintiff in *accion publiciana* is to recover possession only, not ownership.^[18]

The last possessory action is *accion reivindicatoria* or *accion de reivindicacion*. It is an action whereby the plaintiff alleges ownership of the parcel of land and seeks recovery of its full possession.^[19] The issue involved in and determined through *accion reivindicatoria* is the recovery of ownership of real property.^[20] This action can be filed when the dispossession lasted for more than one year.^[21]

For purposes of determining the court that has exclusive original jurisdiction over *accion publiciana* and *accion reivindicatoria*, Section 33 (3) of B.P. Blg. 129,^[22] as amended, expressly states:

Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases. - Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

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