

THIRD DIVISION

[G.R. No. 222297, July 09, 2018]

FORTUNATO ANZURES, PETITIONER, VS. SPOUSES ERLINDA VENTANILLA AND ARTURO VENTANILLA, RESPONDENTS.

DECISION

GESMUNDO, J.:

This is an appeal by *certiorari* seeking to reverse and set aside the July 24, 2015 Decision^[1] and the December 18, 2015 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 136514. The CA affirmed the decision of the Regional Trial Court, Branch 83, Malolos City (RTC) rendered in favor of the Spouses Erlinda Ventanilla (*Erlinda*) and Arturo Ventanilla (*collectively, respondents*), in an action for unlawful detainer.

The Antecedents

On October 12, 2012, respondents filed a Complaint for Unlawful Detainer^[3] before the Municipal Trial Court of Bulacan (MTC) against Fortunato Anzures (*petitioner*). In their complaint, respondents alleged, among others, that they were the owners of a residential house situated in Barangay Sta. Ines, Bulakan, Bulacan; that the house had been declared for taxation purposes in their names for the year 2012;^[4] that the property stands on a 289 square meters parcel of land under OCT No. 2011000008 and registered in the names of petitioner and his wife Carolina Anzures (*Carolina*); that later, by virtue of a Deed of Donation,^[5] dated March 21, 2011, petitioner and his wife Carolina donated 144 square meters portion of the land in favor of respondents; that Erlinda Ventanilla "indicated to partition the said property,"^[6] but the house situated on said property constitutes a stumbling block on the partition of the said property; that being the owners of the property, respondents merely tolerated the occupation of the property by petitioner; that they demanded he vacate the house to give way to the subdivision and partition of the property but to no avail; and that respondents filed a complaint with the office of the Barangay but no amicable settlement was effected.

In his Answer with Counterclaim,^[7] petitioner sought the dismissal of the complaint for lack of cause of action. He averred that he and his late spouse Carolina were the owners of the residential house; that he was also the registered owner of the 289 square meters parcel of land, having bought the same from Erlinda Ventanilla for P150,000.00 as evidenced by the *Pagpapamana sa Labas ng Hukuman na may Pagtalikod sa Bahagi ng Lupa at Bilihang Tuluyan sa Lupa*,^[8] dated August 2, 2000; that his possession and ownership of the land was evidenced by Original Certificate of Title (OCT) No. 2011000008; that he was the rightful owner of the residential house as shown by the tax receipts confirming the religious payments he made from 1998 to 2011.^[9]

Petitioner also denied the genuineness and authenticity of the March 21, 2011 deed of donation because at that time, Carolina was mentally and physically incompetent to execute the same. He contended that he had no knowledge of the deed and he never affixed his signature thereon.^[10]

The MTC Ruling

On August 16, 2013, the MTC ruled in favor of respondents and granted their complaint for unlawful detainer against petitioner. It rendered judgment as follows:

WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against defendant ordering the latter and all persons claiming rights under him -

1. To vacate the residential house consisting of 144 square meters standing on the lot embraced in OCT No. 2911000008 (sic) situated in Sta. Ines, Bulakan, Bulacan and surrender possession thereof to plaintiffs;
2. To pay plaintiffs the sum of P1,000.00 a month as reasonable compensation for the use and occupation of the subject property from filing of the complaint (October 19, 2012), until the same is vacated or the possession thereof is surrendered to plaintiffs;
3. To pay plaintiffs the sum of P5,000.00 as attorney's fees, aside from the costs.

SO ORDERED.^[11]

Unconvinced, petitioner appealed to the RTC.

The RTC Ruling

On June 30, 2014, the RTC affirmed *in toto* the judgment of the MTC. It held that respondents have a better right over the subject property than petitioner. The RTC also affirmed that respondents merely tolerated the possession of petitioner. The dispositive portion of the RTC ruling reads:

WHEREFORE, premises considered, the Decision rendered by the Municipal Trial Court of Bulakan, Bulacan, dated August 16, 2013 is **AFFIRMED IN TOTO**.

SO ORDERED.^[12]

Aggrieved, petitioner sought relief before the CA arguing that the RTC committed grave error in affirming the MTC's decision as it is not in accord with law and jurisprudence and, if not corrected, said error will cause injustice and irreparable damage to petitioner.^[13]

In his petition for review with the CA, petitioner raised two (2) points: 1] that respondents have no cause of action as they failed to sufficiently aver in their complaint the jurisdictional fact of unlawful withholding of the subject premises -

when and how the matter of the entry and dispossession thereof were effected;^[14] and 2] the deed of donation was a forged document as his wife Carolina was seriously ill at the time of its alleged execution.^[15]

The CA Ruling

In its decision dated July 24, 2015, the CA denied the petition.

On the issue of lack of cause of action, it concluded that respondents' allegations in their complaint clearly make a case for unlawful detainer. The CA explained that the complaint sufficiently averred the unlawful withholding of the subject residential house by petitioner, constitutive of unlawful detainer, although the exact words "*unlawful withholding*" were not used.^[16]

The CA also noted that respondents asserted that petitioner's occupancy was through their tolerance. Thus, it reiterated the ruling that a person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against him. Possession by tolerance is lawful, but such possession becomes unlawful when the possessor by tolerance refuses to vacate upon demand made by the owner.^[17]

With regard to the forgery of the deed of donation, the CA stated that forgery cannot be presumed. It must be proved by clear, positive and convincing evidence.^[18] The CA observed that not a modicum of evidence was adduced by petitioner to substantiate his claim of forgery and, thus, such claim was merely self-serving.^[19]

Ultimately, the CA reiterated the oft-repeated doctrine that factual findings of the trial courts should be accorded great weight and are generally not disturbed on appeal.^[20]

Petitioner filed a motion for reconsideration but it was denied by the CA.

Hence, this petition raising the following:

ISSUES

I

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN UPHOLDING THE REGIONAL TRIAL COURT'S DECISION AFFIRMING THE MUNICIPAL TRIAL COURT'S DECISION THAT THE RESPONDENT SPOUSES HAVE A CAUSE OF ACTION TO EJECT PETITIONER BASED ON TOLERANCE.

II

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN UPHOLDING THE VALIDITY OF THE DEED OF DONATION DATED MARCH 21, 2011.

The primary issue for resolution is whether or not respondents have a cause of action to eject petitioner from the subject property.

The Court's Ruling

The petition is meritorious.

Petition for Review Under Rule 45

Under Rule 45 of the Rules of Court, only questions of law should be raised in petitions filed because the Court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are final, binding or conclusive on the parties and upon this court when supported by substantial evidence.^[21]

As in every rule, there are exceptions which have been enunciated in a plethora of cases. These are:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) When the judgment is based on a misapprehension of facts;
- (5) When the findings of fact are conflicting;
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) The findings of the Court of Appeals are contrary to those of the trial court;
- (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and
- (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.^[22]

This case falls under one of the exceptions as there are certain relevant facts that would warrant a different conclusion if properly considered.

Recovery of possession in general

There are four (4) remedies available to one who has been deprived of possession of real property. These are: (1) an action for unlawful detainer; (2) a suit for forcible entry; (3) *accion publiciana*; and (4) *accion reivindicatoria*.^[23]

Unlawful detainer and forcible entry are summary ejectment suits where the only issue to be determined is who between the contending parties has a better possession of the contested property.^[24] On the other hand, an *accion publiciana*, also known as *accion plenaria de posesion*, is a plenary action for recovery of possession in an ordinary civil proceeding in order to determine the better and legal right to possess, independently of title,^[25] while an *accion reivindicatoria*, involves not only possession, but ownership of the property.^[26]

The present case is one for unlawful detainer, which 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."^[27] In this case, respondents alleged that petitioner has been occupying their property by tolerance and has refused to vacate it despite their repeated demands.

The possession of the defendant in an unlawful detainer case is originally legal but becomes illegal due to the expiration or termination of the right to possess. The sole issue for resolution in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. *When the defendant, however, raises the defense 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.*^[28] (italics supplied)

The Present Controversy

In this case, both parties claim ownership over the subject property. Each presented documents to support their respective claim, enumerated in their chronological sequence as follows:

| DATE | DOCUMENT | DETAILS | PRESENTED BY |
|----------------|---|---|--------------|
| May 31, 2000 | Waiver of Rights over the Unregistered Parcel of Land | Executed by Filomena Rodriguez Rivera, Enriqueta Rodriguez and Rosalina Rodriguez Sta. Ana in favor of their nieces, Erlinda and Carolina | Respondents |
| August 2, 2000 | Deed of Absolute Sale of Unregistered Land | Executed by Filomena Rodriguez Rivera, | -same- |