

## SECOND DIVISION

[ G.R. No. 219811, April 06, 2016 ]

**REX DACLISON, PETITIONER, VS. EDUARDO BAYTION,  
RESPONDENT.**

### DECISION

**MENDOZA, J.:**

Assailed in this petition for review<sup>[1]</sup> are the February 5, 2015 Decision<sup>[2]</sup> and the August 3, 2015 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 99627, which affirmed *in toto* the April 27, 2012 Decision<sup>[4]</sup> rendered by the Regional Trial Court, Branch 224, Quezon City (RTC) in Civil Case No. Q-09-66145, a case for forcible entry.

#### *The Antecedents*

On January 27, 2009, respondent Eduardo Baytion (*Baytion*) filed a complaint<sup>[5]</sup> for Forcible Entry and Damages with Prayer for Issuance of Preliminary Mandatory Injunction with the Metropolitan Trial Court, Branch 43, Quezon City (*MeTC*) against petitioner Rex Daclison (*Daclison*), which was docketed as Civil Case No. 39225.

In the complaint, Baytion alleged that he was a co-owner of a parcel of land consisting of 1,500 square meters, covered by Transfer Certificate Title (*TCT*) No. 221507. The said property was inherited by him and his siblings from their parents and, as agreed upon, was being administered by him. As administrator, he leased portions of the property to third persons.

Erected on the said property was a one-storey building which was divided into seven units or stalls. One of the stalls was leased to a certain Leonida Dela Cruz (*Leonida*) who used it for her business of selling rocks, pebbles and similar construction materials.

When the lease of Leonida expired sometime in May 2008, Daclison and other persons acting under her took possession of the portion leased and occupied by Leonida without the prior knowledge and consent of Baytion. Since then, Daclison had been occupying the contested portion and using it for his business of selling marble and other finishing materials without paying anything to Baytion.

Upon learning of Daclison's unauthorized entry into the subject portion of the property, sometime in June 2008, Baytion demanded that he vacate it. Despite oral and written demands to vacate, Daclison refused to do so. This prompted Baytion to file the complaint for forcible entry and damages.

Daclison, in his answer, averred that sometime in 1978, Baytion leased the subject portion to Antonio dela Cruz (*Antonio*) where the latter started a business; that ten

or fifteen years later, a stone walling, called a *riprap*, was erected at the creek lying beside Baytion's property, leaving a deep down-sloping area; that Antonio negotiated with a certain engineer so he could be in possession of the said down-slope; that Antonio had the down-slope filled up until it was leveled with the leased portion; that Antonio paid for the right to possess the same; that in 2000, Antonio's business was taken over by Leonida, who suffered a stroke in December 2007; that after her death, the business was taken over by Ernanie Dela Cruz (*Ernanie*); that in February 2008, he (Daclison) entered into a business venture with Ernanie in the same leased property and he took over the management of the business; that he received a letter from Baytion addressed to Ernanie requesting the latter to vacate the subject premises; that Baytion and Ernanie came to an agreement that the latter would continue the lease of the property; that he issued a check in the amount of P100,000.00 as payment for the rental arrears; that two weeks thereafter, Baytion returned the check and demanded that Ernanie vacate the property; that Baytion promised that he would no longer bother them if they would just transfer to the filled-up and plane-leveled property; that on account of the said promise, he and Ernanie vacated the leased area and transferred their business to the filled-up portion; that despite the fact that they already vacated the leased portion of the property, Baytion still filed a complaint with the barangay claiming that the filled-up portion was part. of his property; that the executive officer of the barangay who conducted the investigation made a report indicating that a *mojon* was placed by him (Daclison) which showed the boundary of Baytion's property; that Baytion acknowledged the said report and agreed to put an end to the controversy; and that despite Baytion's agreement to put an end to the dispute, he still sent a demand letter to vacate.<sup>[6]</sup>

On August 25, 2009, the MeTC dismissed the case on the ground that Baytion failed to include his siblings or his co-owners, as plaintiffs in the case. The dismissal, however, was without prejudice.

Baytion appealed the case to the RTC, which ruled that the MeTC lacked jurisdiction to decide the case because the allegations in the complaint failed to constitute a case of forcible entry. Pursuant to Section 8, Rule 40 of the Rules of Court, however, the RTC did not dismiss the case and, instead, exercised its original jurisdiction over the same.

The RTC then decided that Baytion had a better right of possession over the property. The dispositive portion of its decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering:

- 1) The defendant and other persons claiming under him to vacate and to turn over the possession of the subject property to the plaintiff; and,
- 2) The defendant to pay plaintiff the amount of P20,000.00/monthly for the use of the premises commencing from May 2008 until the subject premises is vacated.

SO ORDERED.<sup>[7]</sup>

Aggrieved, Daclison filed an appeal with the CA.

The CA tackled two issues, namely: a) whether the RTC committed a reversible-error when it exercised original jurisdiction of the case and decided the same on its merits pursuant to Section 8, Rule 40 of the Rules of Court; and, b) who, between Baytion and Daclison, had a better right to possess the subject property.

The CA ruled that the MeTC had no jurisdiction to hear and decide the case in a summary proceeding for forcible entry because Baytion failed to allege that he was in prior physical possession of the property and that he was deprived of his possession under Section 1, Rule 70 of the Revised Rules of Court. It was of the view that the present action for forcible entry had actually ripened into one for recovery of the right to possess or *accion publiciana*, which was an action in an ordinary civil proceeding in the Regional Trial Court. The action was aimed at determining who among the parties had a better right of possession of realty independent of the issue of ownership or title. It was an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.<sup>[8]</sup> Thus, it agreed with the RTC when the latter correctly assumed jurisdiction over the case following the mandate of Section 8, Rule 40 of the Revised Rules of Court.<sup>[9]</sup>

As to the issue of possession, the CA concluded that Baytion, as co-owner of the subject property, had a better right to possess. It wrote:

Xxx, it is clear that Antonio, Leonida and Ernanie were all lessees of the subject property and its improvements owned by the plaintiff. Ernanie, who is a sub-lessee of the subject property, again sub-leased the same to appellant, without authority or consent from appellee. Thus, since appellant have been possessing the subject property in his capacity as a mere sub-lessee, he cannot own the subject property and its improvements through open, continuous and adverse possession of the property. It follows then that appellee has the right to repossess the subject property.<sup>[10]</sup>

On February 5, 2015, the CA rendered the assailed decision, disposing in this wise:

**WHEREFORE**, the instant appeal is hereby **DISMISSED** for lack of merit, and the Decision 27 April 2012 rendered by Branch 224 of the RTC of Quezon City in Civil Case No. Q-09-66145 is **AFFIRMED in toto**.

**SO ORDERED.**<sup>[11]</sup>

Daclison filed a motion for reconsideration but it was denied by the CA in the assailed resolution.

Hence, the present petition for review raising the following

### **ISSUES**

#### **I.**

**THE HONORABLE COURT A QUO GRAVELY ERRED WHEN IT HELD**