

FIRST DIVISION

[G.R. No. 203760, December 03, 2014]

**HOMER C. JAVIER, REPRESENTED BY HIS MOTHER AND NATURAL
GUARDIAN, SUSAN G. CANENCIA, PETITIONER, VS. SUSAN
LUMONTAD, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated September 29, 2011 and the Resolution^[3] dated October 1, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 113046 which set aside the Decision^[4] dated August 20, 2009 and the Order^[5] dated January 18, 2010 of the Regional Trial Court of Antipolo City, Branch 74 (RTC) in Sp. Civil Case No. 08-744, finding that the action instituted by petitioner was not one for forcible entry, but for recovery of ownership and possession, hence, within the original jurisdiction of the latter. Consequently, the CA ordered the remand of the case to the RTC for trial on the merits.

The Facts

This case originated from a forcible entry Complaint^[6] dated July 3, 2007 filed by petitioner Homer C. Javier, represented by his mother and natural guardian Susan G. Canencia (petitioner), against respondent Susan Lumontad (respondent) before the Municipal Trial Court of Taytay, Rizal (MTC), docketed as Civil Case No. 1929.

In his complaint, petitioner alleged that he is one of the sons of the late Vicente T. Javier (Vicente), who was the owner of a 360-square meter (sq. m.) parcel of land located at Corner Malaya and Gonzaga Streets, Barangay Dolores, Taytay Rizal (subject land),^[7] covered by Tax Declaration (TD) No. 00-TY-002-11458.^[8] Since his birth, petitioner's family has lived in the residential house erected thereon.^[9] Upon Vicente's death, petitioner, together with his mother, continued their possession over the same. On March 26, 2007, respondent gained entry into the subject land and started to build a two (2)-storey building (subject building) on a 150 sq. m. portion thereof, despite petitioner's vigorous objections and protests.^[10] The dispute was submitted to *barangay* conciliation but no amicable settlement was reached between the parties.^[11] Thus, petitioner was constrained to file against respondent the instant forcible entry complaint, averring, in addition to the foregoing, that reasonable compensation for the use and occupancy of the above-said portion may be fixed at P5,000.00 per month.^[12]

In her Answer^[13] dated July 30, 2007, respondent admitted that during Vicente's lifetime, he indeed was the owner and in physical possession of the subject land.^[14]

Nevertheless, she claimed to be the owner of the portion where the subject building was being constructed, as evidenced by TD No. 00-TY-002-13031^[15] in her name.^[16] Hence, she took possession of the said portion not as an illegal entrant but as its owner.^[17]

The MTC Ruling

In a Judgment^[18] dated November 11, 2007, the MTC dismissed the complaint for want of cause of action and lack of jurisdiction.^[19]

It found that Vicente actually subdivided the subject land into two (2) lots: the first lot, with an area of 187.20 sq. m., was given to petitioner, while the second lot, with an area of 172.80 sq. m. and where the subject building was erected, was given to one Anthony de la Paz Javier (Anthony), son of Vicente by a previous failed marriage, but was eventually acquired by respondent from the latter through sale.^[20] Based on this finding, the MTC concluded that petitioner had no cause of action against respondent since she was merely exercising her rights as the owner of the 172.80 sq. m. subdivided lot.^[21]

Also, the MTC observed that petitioner's complaint failed to aver the required jurisdictional facts as it merely contained a general allegation that respondent's entry into the disputed portion was made by means of force and intimidation, without specifically stating how, when, and where were such means employed. With such failure, the MTC intimated that petitioner's remedy should either be an *accion publiciana* or an *accion reivindicatoria* instituted before the proper forum.^[22]

Dissatisfied, petitioner appealed to the RTC.

The RTC Ruling

In a Decision^[23] dated August 20, 2009, the RTC reversed and set aside the MTC ruling, and accordingly ordered respondent to vacate the disputed portion and surrender possession thereof to petitioner. Likewise, it ordered respondent to pay petitioner the amounts of ₱5,000.00 a month from March 2007, until she vacates said portion, as reasonable compensation for its use and occupation, and ₱20,000.00 as attorney's fees, including costs of suit.^[24]

Preliminarily, the RTC ruled that the facts averred in petitioner's complaint – namely, that petitioner, through his late father, owned and possessed the subject land, and that by means of force and intimidation, respondent gained entry thereto^[25] – show that his cause of action is indeed one of forcible entry that falls within the jurisdiction of the MTC.^[26]

On the merits, the RTC found that petitioner, being the owner and possessor of the property in question, has the right to be respected in his possession and that respondent forcibly and unlawfully deprived him of the same.^[27]

Unconvinced, respondent moved for reconsideration,^[28] which was, however, denied in an Order^[29] dated January 18, 2010, prompting petitioner to file an appeal

before the CA.

The CA Ruling

In a Decision^[30] dated September 29, 2011, the CA set aside the RTC ruling and remanded the case to the latter court for trial on the merits.^[31]

It held that the issue of possession of the subject land is intimately intertwined with the issue of ownership, such that the former issue cannot be determined without ruling on who really owns such land. Thus, it remanded the case to the RTC for trial on the merits in the exercise of the latter's original jurisdiction in an action for recovery of ownership and possession pursuant to Section 8 (2), Rule 40 of the Rules of Court.^[32]

This notwithstanding, the CA still concluded that respondent had the subject building constructed in the concept of being the owner of the 172.80 sq. m. portion of the subject land. ^[33] In this relation, it was observed that petitioner gave a misleading description of TD No. 00-TY-002-11458, considering that said tax declaration only covered petitioner's family house and not the subject land where said improvement was built, as petitioner alleged in his complaint.^[34] In truth, the CA found that the subject land is separately covered by TD No. 00-TY-002-9660,^[35] which was cancelled when the land was subdivided into two (2) lots, namely: (a) the 187.20 sq. m. lot covered by TD No. 00-TY-002-12825^[36] given by Vicente to petitioner; and (b) the 172.80 sq. m. lot covered by TD No. 00-TY-002-12824^[37] given by Vicente to Anthony, which the latter sold to respondent, resulting in the issuance of TD No. 00-TY-002-13031^[38] in her name.

Further, the CA stated that petitioner was not able to sufficiently establish that respondent employed force and intimidation in entering the 172.80 sq. m. portion of the subject land as he failed to demonstrate the factual circumstances that occurred during his dispossession of said property.^[39]

Aggrieved, petitioner filed a motion for reconsideration,^[40] which was, however, denied in a Resolution^[41] dated October 1, 2012, hence, this petition.

The Issue Before the Court

The main issue for the Court's resolution is whether or not the CA correctly set aside the RTC Ruling and ordered the remand of the case to the latter court for trial on the merits in an action for recovery of ownership and possession.

The Court's Ruling

Although the Court finds that the complaint was indeed one for forcible entry, petitioner's case nonetheless fails to impress on the merits.

A. Nature of the Case: Forcible Entry.

The Court disagrees with the findings of both the MTC and the CA that the

allegations in the petitioner's complaint do not make a case for forcible entry but another action cognizable by the RTC.^[42]

As explicated in the case of *Pagadora v. Ilao*,^[43] "[t]he invariable rule is that what determines the nature of the action, as well as the court which has jurisdiction over the case, are the allegations in the complaint. In ejectment cases, the complaint should embody such statement of facts as to bring the party clearly within the class of cases for which [Section 1, Rule 70 of the Rules of Court] provides a summary remedy, and must show enough on its face to give the court jurisdiction without resort to *parol* evidence. Hence, **in forcible entry, the complaint must necessarily allege that one in physical possession of a land or building has been deprived of that possession by another through force, intimidation, threat, strategy or stealth.** It is not essential, however, that the complaint should expressly employ the language of the law, but it would suffice that facts are set up showing that dispossession took place under said conditions. In other words, the plaintiff must allege that he, prior to the defendant's act of dispossession by force, intimidation, threat, strategy or stealth, had been in prior physical possession of the property. This requirement is **jurisdictional, and as long as the allegations demonstrate a cause of action for forcible entry, the court acquires jurisdiction over the subject matter.**"^[44]

A plain reading of petitioner's complaint shows that the required jurisdictional averments, so as to demonstrate a cause of action for forcible entry, have all been complied with. Said pleading alleges that petitioner, as the original owner's, *i.e.*, Vicente's, successor-in-interest, was in prior physical possession of the subject land but was eventually dispossessed of a 150 sq. m. portion thereof on March 26, 2007 by respondent who, through force and intimidation, gained entry into the same and, thereafter, erected a building thereon. Clearly, with these details, the means by which petitioner's dispossession was effected cannot be said to have been insufficiently alleged as mistakenly ruled by the MTC and later affirmed by the CA. The "how" (through unlawful entry and the construction of the subject building), "when" (March 26, 2007), and "where" (a 150 sq. m. portion of the subject land) of the dispossession all appear on the face of the complaint. In *Arbizo v. Sps. Santillan*,^[45] the Court held that the acts of unlawfully entering the disputed premises, erecting a structure thereon, and excluding therefrom the prior possessor, would necessarily imply the use of force,^[46] as what had, in fact, been alleged in the instant complaint. Hence, it was erroneous to conclude that petitioner only made a general allegation that respondent's entry in the premises was made by means of force and intimidation^[47] and, consequently, that a forcible entry case was not instituted before the MTC.

Given that a forcible entry complaint had been properly filed before the MTC, the CA thus erred in ordering the remand of the case to the RTC for trial on the merits in an action for recovery of possession and ownership, otherwise known as an *accion reivindicatoria*,^[48] pursuant to Paragraph 2, Section 8, Rule 40 of the Rules of Court which reads:

SEC. 8. *Appeal from orders dismissing case without trial; lack of jurisdiction.* – x x x.