

SECOND DIVISION**[G.R. No. 204926, December 03, 2014]****ANACLETO C. MANGASER, REPRESENTED BY HIS ATTORNEY-IN-FACT EUSTAQUIO DUGENIA, PETITIONER, VS. DIONISIO UGAY, RESPONDENT.****D E C I S I O N****MENDOZA, J.:**

This is a petition for review on *certiorari* seeking to reverse and set aside the June 13, 2012 Decision^[1] and the December 5, 2012 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 122153, entitled "*Dionisio Ugay v. Anacleto C. Mangaser, represented by his Attorney-in-fact Eustaquio Dugenia*," a case of forcible entry and damages.

The Facts

On October 30, 2007, petitioner Anacleto Mangaser, represented by his attorney-in-fact, Eustaquio Dugenia (*petitioner*), tiled a complaint for Forcible Entry with Damages against respondent Dionisio Ugay (*respondent*) before the Municipal Trial Court of Caba, La Union (*MTC*). In his complaint, petitioner alleged that he was the registered owner and possessor of a parcel of land situated in Santiago Sur, Caba, La Union, with an area of 10,632 square meters and covered by OCT No. RP-174 (FP-13787) and Tax Declaration No. 014-00707; that on October 31, 2006, petitioner, discovered that respondent stealthy intruded and occupied a portion of his property by constructing a residential house thereon without his knowledge and consent; that he referred the matter to the Office of Lupong Tagapamayapa for conciliation, but no settlement was reached, hence, a certification to file action was issued by the Lupon; and that demand letters were sent to respondent but he still refused to vacate the premises, thus, he was constrained to seek judicial remedy.^[3]

Respondent denied the material allegations of the complaint and put up the following defenses, to wit: that he had been a resident of Samara, Aringay, La Union, since birth and when he reached the age of reason, he started occupying a parcel of land in that place then known as Sta. Lucia, Aringay, La Union; that years later, this parcel of land was designated as part of Santiago Sur, Caba, La Union due to a survey made by the government; that he introduced more improvements on the property by cultivating the land, and in March 2006, he put up a "bahay kubo"; that in October 2006, he installed a fence made of "bolo" to secure the property; that in installing the fence, he was guided by the concrete monuments which he knew to be indicators of the boundaries of petitioner's property; that while he could not locate some of the monuments, he based the boundaries on his recollection since he was around when these were installed; that he knew the boundaries of petitioner's property because he knew the extent of the "iron mining" activities done by a company on the said property; that petitioner was never in actual possession of

the property occupied by him, and it was only on October 31, 2006 when he discovered the alleged intrusion; that it was not correct to say that he refused to vacate and surrender the premises despite receipt of the demand letters because in his letter-reply, he assured petitioner that he would voluntarily vacate the premises if he would only be shown to have intruded into petitioner's titled lot after the boundaries were pointed out to him; and that instead of showing the boundaries to him, petitioner filed an action for forcible entry before the MTC.^[4]

MTC Ruling

On April 26, 2011, the MTC ruled in favor of respondent^[5]. It stated that petitioner failed to adduce any evidence to prove that the lot occupied by respondent was within his lot titled under OCT No. RP-174 (13789). The MTC opined that petitioner could have presented a relocation survey, which would have pinpointed the exact location of the house and fence put up by respondent, and resolved the issue once and for all.^[6] It also explained that petitioner failed to prove his prior physical possession of the subject property. The OCT No. RP-174(13789) registered under petitioner's name and the Tax Declaration were not proof of actual possession of the property. The dispositive portion of which reads:

WHEREFORE, the plaintiff (petitioner) having failed to establish his case by preponderance of evidence, the complaint is hereby DISMISSED.^[7]

RTC Ruling

Aggrieved, petitioner appealed to the Regional Trial Court of Bauang, La Union (*RTC*) and the case was raffled to Branch 33.

In its August 23, 2011 Decision,^[8] the RTC *reversed* the MTC decision and ruled in favor of petitioner. It relied on the cases of *Barba v. Court of Appeals*^[9] and *Nunez v. SLTEAS Phoenix Solutions, Inc.*,^[10] which held that in ejectment cases, possession of the land did not only mean actual or physical possession but also included the subject of the thing to the action of one's will or by the proper acts and legal formalities established for acquiring such right. The RTC stated that petitioner had clearly shown his possession of the property as evidenced by his OCT No. RP-174(13789) issued in March 1987 and tax declaration, dating back as early as 1995.^[11] It added that the boundaries of the property were clearly indicated in the title, thus, there was no need to conduct a survey. As the owner, petitioner knew the exact metes and bounds of his property so that when respondent intruded stealthily, he filed the subject suit.^[12]

The dispositive portion of the RTC decision reads:

WHEREFORE, after a thorough perusal of the facts and evidence in this case, this Court reverses the decision of the MTC, Caba, La Union, dated April 26, 2011 and rules in favor of plaintiff appellant (petitioner) and against defendant-appellee (respondent), ordering the latter and all other persons claiming rights under him to:

1. VACATE the portion of the subject property encroached by him;
2. SURRENDER actual physical possession of the subject portion peacefully to plaintiff-appellant;
3. REMOVE all the improvements he introduced therein;
4. PAY attorney's fees in the amount Php20,000.00 to plaintiff-appellant, and pay the cost of suit.

SO ORDERED.^[13]

Undaunted, respondent appealed to the CA.

CA Ruling

The CA *reversed* and *set aside* the decision of the RTC. Citing *Quizon v. Juan*,^[14] it emphasized that petitioner must allege and prove that he was in prior physical possession of the property in dispute. The word "possession," as used in forcible entry and unlawful detainer cases, meant nothing more than physical possession, not legal possession in the sense contemplated in civil law. The CA wrote that petitioner was not in physical possession despite the presentation of the OCT No. RP-174(13789) and his tax declarations.^[15] It reiterated that when the law would speak of possession in forcible entry cases, it is prior physical possession or possession *de facto*, as distinguished from possession *de jure*. What petitioner proved was legal possession, not his prior physical possession. Furthermore, the CA stated that the RTC misquoted *Nuñez v. SLTEAS Pheonix Solutions*^[16] by giving the wrong notion of what kind of possession was contemplated in forcible entry cases. In other words, physical possession was the crux in forcible entry, not possession that stemmed upon ownership.^[17]

The dispositive portion of the assailed decision reads:

WHEREFORE, premises considered, the Petition for Review is GRANTED, accordingly, the Decision dated August 23, 2011 and Order dated October 25, 2011, of the RTC Branch 33, Bauang, La Union in Civil Case No. 2029-BG are REVERSED and SET ASIDE. The Decision of the MTC dated April 26, 2011 is hereby REINSTATED.

SO ORDERED.^[18]

Petitioner filed a motion for reconsideration,^[19] dated July 6, 2012, but it was subsequently denied by the CA in a Resolution,^[20] dated December 5, 2012. It reads:

This Court, after a meticulous study of the arguments set forth in the Motion for Reconsideration filed by respondent, finds no cogent reason to

revise, amend, much less reverse, the assailed Decision dated June 13, 2012. The Motion for Reconsideration is, thus, DENIED

SO ORDERED.^[21]

Hence, this petition, anchored on the following

STATEMENT OF ISSUES

I

WHETHER OR NOT THE COURT OF APPEALS FAILED TO CONSIDER THE EVIDENCE OF OWNERSHIP OF PETITIONER WHICH MAY ESTABLISH PRIOR POSSESSION OVER THE PROPERTY BY HEREIN PETITIONER.

II

WHETHER OR NOT THE RESOLUTION DATED DECEMBER 5, 2012 OF THE COURT OF APPEALS, FORMER SPECIAL FOURTH DIVISION, DENYING THE MOTION FOR RECONSIDERATION IS VALID.^[22]

Petitioner argues that in ejectment cases, possession of the land does not only mean actual or physical possession or occupation but also by the fact that a land is subject to the action of one's will or by proper acts and legal formalities established for acquiring such right; that the CA should have considered OCT No. RP-174(13789) his tax declaration as proofs of prior physical possession over the property; and that the issuance of the same are considered to by law as proper acts and legal formalities established for acquiring such right. Petitioner cited Tolentino, as one of the authors and experts in Civil law, stating that the "proper acts and formalities" refer to juridical acts, or the acquisition of possession by sufficient title, *inter vivos or mortis causa*, onerous or lucrative. These are the acts which the law gives the force of acts of possession.

Petitioner also avers that the December 5, 2012 CA Resolution was not valid as it did not state the legal basis required by the Constitution.

On May 28, 2013, respondent filed his Comment^[23] before this Court. He stated that the issues raised and the arguments presented by petitioner have been thoroughly resolved and ruled upon by the CA. The appellate court did not err in reversing the RTC decision because petitioner was never in prior physical possession of the property in dispute. Respondent asserts that he has been in prior, actual, continuous, public, notorious, exclusive and peaceful possession in the concept of an owner of the property in dispute.^[24]

On March 28, 2014, petitioner filed his Reply,^[25] reiterating the case of *Nunez v. SLTEAS Phoenix Solutions, Inc.*,^[26] where a party was able to demonstrate that it

had exercised acts of ownership over the property by having it titled in its name and by paying real property taxes on it. Petitioner also laments the wrongful insistence of respondent that his possession over the property was one in the concept of an owner. To petitioner's mind, respondent failed to adequately adduce evidence to show proof of his right to possess the property when his possession came under attack with the filing of the subject case.^[27]

The Court's Ruling

The Court finds the petition meritorious.

For a forcible entry suit to prosper, the plaintiffs must allege and prove: (a) that they have prior physical possession of the property; (b) that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and, (c) that the action was filed within one (1) year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.^[28]

There is only one issue in ejectment proceedings: who is entitled to physical or material possession of the premises, that is, to possession *de facto*, not possession *de jure*? Issues as to the right of possession or ownership are not involved in the action; evidence thereon is not admissible, except only for the purpose of determining the issue of possession.^[29]

As a rule, the word "possession" in forcible entry suits indeed refers to nothing more than prior physical possession or possession *de facto*, not possession *de jure* or legal possession in the sense contemplated in civil law. Title is not the issue, and the absence of it "is not a ground for the courts to withhold relief from the parties in an ejectment case."^[30]

The Court, however, has consistently ruled in a number of cases^[31] that while prior physical possession is an indispensable requirement in forcible entry cases, the dearth of merit in respondent's position is evident from the principle that possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right. The case of *Quizon v. Juan*,^[32] which surprisingly was relied on by the CA, also stressed this doctrine.

Possession can be acquired by juridical acts. These are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, execution and registration of public instruments, inscription of possessory information titles and the like.^[33] The reason for this exceptional rule is that possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession.^[34] It is sufficient that petitioner was able to subject the property to the action of his will.^[35] Here, respondent failed to show that he falls under any of these circumstances. He could not even say that the subject property was leased to him except that he promised that he would vacate it if petitioner would be able to show the boundaries of the titled lot.

In the case of *Nuñez v. SLTEAS Phoenix Solutions, inc.*,^[36] the subject parcel was