

SECOND DIVISION

[G.R. No. 150025, July 23, 2008]

SPS. NARCISO BARNACHEA AND JULITA BARNACHEA (NOW HEIRS OF DECEASED JULITA BARNACHEA), PETITIONERS, VS. HON. COURT OF APPEALS, HON. OSCAR C. HERRERA, JR., PRESIDING JUDGE, RTC BRANCH 20, MALOLOS, BULACAN, HON., HORACIO T. VIOLA, PRESIDING JUDGE, MTC PULILAN, BULACAN, AND SPS. AVELINO AND PRISCILLA IGNACIO, RESPONDENTS.

D E C I S I O N

BRION, J.:

Before us is the Petition for Review by *Certiorari* filed by the spouses Narciso and Julita Barnachea^[1] (petitioners) against the spouses Avelino and Priscilla Ignacio (respondents), rooted in the ejectment complaint the respondents filed against the petitioners before the Municipal Trial Court (MTC) of Pulilan, Bulacan. The petition prays that we nullify the Decision^[2] of the Court of Appeals (CA) and its Resolution^[3] denying the motion for reconsideration, and that we suspend the ejectment proceedings in light of a pending action for quieting of title involving the disputed property.

BACKGROUND FACTS

The respondents filed their complaint for ejectment against the petitioners before the MTC on October 20, 1998. The subject matter of the complaint were lots titled in respondent Avelino Ignacio's name (Subdivision Lot 16 covered by TCT No. 86821, and Subdivision Lot 17 covered by TCT No. 86822), which lots are adjacent to the property that the petitioners own and occupy. These properties were originally part of a piece of land owned by a certain Luis Santos and subsequently inherited by his daughter Purificacion Santos Imperial. The land was subdivided and transferred to tenant-farmers Santiago Isidro (EP No. A-050545 with TCT No. T-188-EP) and Procopio de Guzman (EP No. 445440 with TCT No. T-185-EP). The property that the petitioners own and occupy was derived from the land transferred to Santiago Isidro. Respondent Ignacio's properties were derived, on the other hand, from the land originally transferred to Procopio de Guzman.

The complaint was dismissed on December 8, 1999, but was revived on April 5, 2000. The petitioners received summons on April 13, 2000 and, instead of filing a new Answer, filed on April 18, 2000 a Motion for Extension of Time to File Answer which the MTC denied on May 5, 2000. The petitioners responded to this denial by filing a motion for reconsideration on May 23, 2000. Meanwhile, the respondents filed a Motion for the Issuance of a Writ of Execution dated May 24, 2000, which the petitioners received on May 26, 2000.

To avert the implementation of the writ of execution, the petitioners filed a Notice of Appeal. The MTC issued a subpoena dated June 5, 2000 setting the hearing on the petitioners' Motion for Reconsideration and the respondents' Motion for Issuance of Writ of Execution on June 19, 2000. The petitioners subsequently filed a Compliance that prayed, among others, that the pending resolution on the incident and the Notice of Appeal be deemed to have been filed *ex abundanti cautela*. The respondents, for their part, filed a Manifestation and Motion praying, among others, that the petitioner's Motion for Reconsideration of the May 5, 2000 Order be denied for being moot and academic.

On July 21, 2000, the MTC issued an order declaring the petitioners' Motion for Reconsideration abandoned because of the Notice of Appeal they previously filed. Thereafter, the MTC forwarded the entire record of Civil Case No. 818 to the Regional Trial Court, Branch 20 (RTC Branch 20), Malolos, Bulacan. On August 24, 2000, petitioners submitted their Appeal Memorandum to the RTC Branch 20 which affirmed the MTC decision on September 20, 2000.

On October 5, 2000, the petitioner Julita's sister, Leticia, representing herself to be the sole owner of EP No. A-050545 (TCT No. T-188-EP), filed a Petition for Quieting of Title with the Regional Trial Court, Branch 19 (*RTC Branch 19*), Malolos, Bulacan, docketed as Civil Case No. 694-M-2000. On October 9, 2000, prior to their receipt of the RTC Branch 20's September 20, 2000 decision, the petitioners filed an Urgent Motion for the Suspension of Proceedings (referred to for purposes of this decision as the urgent motion).

RTC Branch 20 denied on October 17, 2000 the petitioners' urgent motion and their subsequent Motion for Reconsideration. The petitioners brought the denials to the CA via a petition for *certiorari* under Rule 65 of the Rules of Court on the issue of **"whether the pendency of an action involving the issue of ownership is sufficient basis for [the] suspension of an ejectment proceeding between the same parties and relating to the same subject matter".**

THE CA'S DECISION

The CA denied the petition and the petitioners' subsequent motion for reconsideration, essentially on the grounds that (1) the issue in an ejectment suit is limited to the physical possession of real property and is separate and distinct from the issue of ownership and possession *de jure* that either party may set forth in his or her pleading; (2) the pendency of an action for reconveyance of title over the same property or for annulment of deed of sale does not divest the MTC of its jurisdiction to try the forcible entry or unlawful detainer case before it, and that ejectment actions generally cannot be suspended pending the resolution of a case for quieting of title between the same parties over the same subject property; and (3) the case does not fall under the exception provided by the case of *Amagan v. Marayag*^[4], where the Court allowed the suspension of ejectment proceedings because of strong reasons of equity applicable to the case - the demolition of the petitioner's house unless the proceedings would be suspended. The CA ruled that the petitioners' reliance on *Amagan* was inappropriate because the said case only applies to unlawful detainer actions while the petitioners' ejectment suit is an action for forcible entry. To the CA, the initial tolerance on the part of the private respondents did not convert the nature of their ejectment suit from forcible entry into unlawful detainer, following the reasoning this Court applied in *Munoz v. Court*

ASSIGNMENT OF ERRORS

The petitioners impute the following error to the CA:

[T]he Honorable Court of Appeals erred when it ruled that the said ejectment proceeding was not a suit for illegal detainer but one of forcible entry, thus, denied application to the exceptional rule on suspension of ejectment proceedings, at any stage thereof, until the action on ownership is finally settled.^[6]

From this general assignment of error, the petitioners submitted in their memorandum the following specific issues for our resolution:

1) whether or not the ejectment case filed by the respondents against petitioners with the MTC of Pulilan is for unlawful detainer or for forcible entry;

2) whether the MTC of Pulilan had validly acquired and exercised jurisdiction over the ejectment case considering that the complaint was filed beyond one year from the demand to vacate the subject premises; and

3) whether or not the ejectment proceedings should be suspended at any stage until the action on ownership of the disputed portion of the subject property is finally settled.

OUR RULING

We find the petition without merit.

1. *Nature of the Action before the MTC.*

The best indicator of what the plaintiff in an ejectment case intends with respect to the nature of his or her complaint can be found in the complaint itself. In this case, the complaint states:^[7]

"That plaintiffs are the registered owners in fee simple of several residential lots identified as lots 16 and 17 covered by Certificate of Title Nos. 86821 and 86822 issued in the name of the spouses by the Register of Deeds of Bulacan, with a total aggregate area of 254 square meters situated at Cutcut, Pulilan, Bulacan. Copy of the said titles are hereto attached and marked as Annex "A" and "A-1"

"That in a portion of the lots 16 and 17, a portion of the house of the defendants was erected and built thus usurping the said portion and this was made known to the defendants when the plaintiffs caused the relocation of the subject lots, however, considering that the latter were not yet in need of that portion, they allowed the former to stay on the portion by tolerance;

"That last July 1998, when the plaintiffs were in the process of fencing the boundary of their lots, to their surprise, they were not allowed by the

defendants to extend the fence up to the portions they illegally occupied;

"That despite the advice given to them by several Geodetic Engineers commissioned by both the plaintiffs and the herein defendants, for them to give way and allow the plaintiffs to fence their lot, same proved futile as they stubbornly refused to surrender possession of the subject portion;

The actions for forcible entry and unlawful detainer are similar because they are both summary actions where the issue is purely physical possession.^[8] Other than these commonalities, however, they possess dissimilarities that are clear, distinct, and well established in law.^[9]

In forcible entry, (1) the plaintiff must prove that he was in prior physical possession of the property until he was deprived of possession by the defendant; (2) the defendant secures possession of the disputed property from the plaintiff by means of force, intimidation, threat, strategy or stealth; hence, his possession is unlawful from the beginning; (3) the law does not require a previous demand by the plaintiff for the defendant to vacate the premises; and (4) the action can be brought only within one-year from the date the defendant actually and illegally entered the property.^[10]

In marked contrast, unlawful detainer is attended by the following features: (1) prior possession of the property by the plaintiff is not necessary; (2) possession of the property by the defendant at the start is legal but the possession becomes illegal by reason of the termination of his right to possession based on his or her contract or other arrangement with the plaintiff; (3) the plaintiff is required by law to make a demand as a jurisdictional requirement; and (4) the one-year period to bring the complaint is counted from the date of the plaintiff's last demand on the defendant.^[11]

Under these standards, we do not hesitate to declare the Court of Appeals in error when it held that the present case involves forcible entry rather than unlawful detainer. A plain reading of the complaint shows the respondents' positions that the petitioners were in prior possession of the disputed property; that the respondents allowed them to occupy the disputed property by tolerance; that the respondents eventually made a demand that the petitioners vacate the property (on August 26, 1998, which demand the petitioners received on August 31, 1998); and that the petitioners refused to vacate the property in light of the defenses they presented. Separately from the complaint, the respondents characterized the action they filed against the petitioners in the MTC as an unlawful detainer when they stated in their memorandum that "*as alleged in the complaint, what was filed by the respondents [was] an ejectment suit for unlawful detainer.*"^[12]

A critical point for us in arriving at our conclusion is the complete absence of any allegation of force, intimidation, strategy or stealth in the complaint with respect to the petitioners' possession of the respondents' property. While admittedly no express contract existed between the parties regarding the petitioners' possession, the absence does not signify an illegality in the entry nor an entry by force, intimidation, strategy or stealth that would characterize the entry as forcible. It has been held that a person who occupies land of another at the latter's tolerance or