

## TWELFTH DIVISION

[ CA-G.R. SP. No. 121474, January 30, 2014 ]

### **BASES CONVERSION AND DEVELOPMENT AUTHORITY AND PORO POINT MANAGEMENT CORPORATION, PETITIONERS, V. LEPANTO CONSOLIDATED MINING COMPANY, RESPONDENT.**

#### **D E C I S I O N**

**ELBINIAS, J.:**

Subject of disposition is a Petition for Review<sup>[1]</sup> filed under Rule 42 of the Rules of Court. The Petition assails the Decision<sup>[2]</sup> dated March 28, 2005 of the Regional Trial Court ("RTC" for brevity) of San Fernando City, La Union, Branch 28 in Civil Case No. 6993, which affirmed the Decision<sup>[3]</sup> dated July 1, 2004 of the Municipal Trial Court in Cities ("MTCC" for brevity) of San Fernando City, La Union, Branch 1, in Civil Case No. 3919 for "Unlawful Detainer"<sup>[4]</sup>. The Petition also questions the RTC's Order<sup>[5]</sup> dated September 2, 2011, which denied petitioners' eventual Motion for Reconsideration<sup>[6]</sup>.

The salient facts are those as stated in the RTC's assailed Decision<sup>[7]</sup> dated March 28, 2005, to wit:

**"xxx Plaintiff (*respondent here*) is the absolute registered owner of parcels of land situated in Poro Point, San Fernando City, La Union, covered by Transfer Certificate of Title Nos. T-3651, T-4244 and T-5220 (*subject properties here*) xxx. Plaintiff (*respondent*) has been in lawful and peaceful possession of said properties since its acquisition, until in the early part of February 2003 when defendants (*petitioners here*), by the implied tolerance or permission by the plaintiff (*respondent*), started occupying and even erected structures, covered and paved catwalks, depriving plaintiff (*respondent*) of the possession of said properties, and since then and up to the present, defendants (*petitioners*) have remained in possession of said properties.**

**Plaintiff (*respondent*), represented by its legal counsel, demanded defendants (*petitioners*) to vacate the properties and pay reasonable compensation for the use and occupation of the premises. Despite plaintiff's (*respondent's*) lawful demands, defendants (*petitioners*) refused without lawful cause to vacate and to pay reasonable compensation for the occupancy of the properties."**<sup>[8]</sup> (*Emphasis Supplied*)

Due to the failure of petitioners Bases Conversion Development Authority and Poro Point Management Corporation<sup>[9]</sup> ("petitioners BCDA and PPMC" or "petitioners" for brevity) to vacate the parcels of land covered by Transfer Certificate of Title (TCT)

Nos. T-3651<sup>[10]</sup>, T-4244<sup>[11]</sup>, and T-5220<sup>[12]</sup> ("subject properties" for brevity), and which were owned by respondent Lepanto Consolidated Mining Company ("respondent LCMC" or "respondent" for brevity) despite the latter's demand<sup>[13]</sup>, respondent filed before the MTCC, a Complaint<sup>[14]</sup> for Unlawful Detainer against petitioners.

The rest of the facts are continued in the RTC's assailed Decision<sup>[15]</sup> dated March 28, 2005, as follows:

"In their [A]nswer, **defendants (*petitioners*) xxx contend that the complaint is essentially a nuisance suit and plaintiff (*respondent*) has no cause of action against defendants (*petitioners*)**. The complaint is intended to delay three (3) expropriation proceedings pending before the Regional Trial Court, Branch 29, San Fernando City, La Union in Civil Case Nos. 6515, 6516 and 6771, the final outcome of said expropriation cases will necessitate the dismissal of the complaint. **Defendants (*petitioners*) further alleged that** good faith of the parties is a crucial element in this case. **The covered and paved catwalks are not occupied and were built not solely for the use of the defendants (*petitioners*). They are used by the public and for public purposes and for the stevedoring activities of the plaintiff (*respondent*) itself."**<sup>[16]</sup> (*Emphasis Supplied*)

On July 1, 2004, the MTCC rendered a Decision<sup>[17]</sup> ordering petitioners to vacate and to surrender the possession of the subject properties to respondent, and for petitioners BCDA and PPMC<sup>[18]</sup> to pay respondent, jointly and severally, reasonable compensation for the occupancy of the subject properties. The dispositive portion of the MTCC's Decision read:

**"WHEREFORE, JUDGMENT** is hereby rendered in favor of the ***plaintiff*** and ***against the defendants*** Bases Conversion and Development Authority and John Hay Poro Point Development Authority:<sup>[19]</sup>

a) ordering them, their agents assigns and other persons acting and/or claiming on their behalf to vacate the premises in question and restore possession thereof to the plaintiff;

b) ordering the defendants to pay plaintiff jointly and severally a reasonable compensation for the occupancy of the properties subject of this case from the time of actual occupancy of the portion thereof to the time possession is actually returned to the plaintiff to be determined by Commissioners to be appointed by the plaintiff and defendants and the representative of this Court who shall be the City Assessor of the City of San Fernando (La Union) or his duly authorized representative subject to the approval of the court.

SO ORDERED."<sup>[20]</sup> (*Emphasis and Italics were made in the original*)

Upon petitioners' appeal<sup>[21]</sup>, the RTC rendered the assailed Decision<sup>[22]</sup> of March 28, 2005, which Decision<sup>[23]</sup> affirmed the MTCC's Decision of July 1, 2004.

After petitioners' Motion for Reconsideration<sup>[24]</sup> was denied by the RTC in its assailed Order<sup>[25]</sup> dated September 2, 2011, petitioners filed the Petition<sup>[26]</sup> at bench praying for the following:

**"ACCORDINGLY**, Petitioners respectfully ask of this Honorable Court of Appeals that:

1. The questioned 28 March 2005 Decision, as well as the 2 September 2011 Order denying Petitioners' Motion for Reconsideration be reversed and set aside; and
2. A new Decision instead be rendered dismissing the illegal (sic) detainer case against Petitioners.

Other equitable reliefs are likewise asked for."<sup>[27]</sup> (*Emphasis was made in the original*)

Petitioners raised the following assignment of errors:

**"A. THE RTC ERRED WHEN IT DID NOT DISMISS THE CASE FOR UNLAWFUL DETAINER AGAINST PETITIONERS DESPITE THE FACT THAT THERE WAS NO CAUSE OF ACTION AGAINST THE LATTER.**

**B. THE RTC ERRED WHEN IT DID NOT DISMISS THE CASE AND LATER ORDERED BCDA'S EJECTMENT FROM THE PREMISES WHICH ARE WALKWAYS USED FOR PUBLIC PURPOSE."**<sup>[28]</sup>  
(*Emphasis was made in the original*)

Contrary to petitioners' *assigned errors A. and B.*, respondent LCMC had the right to recover the possession of the subject properties from petitioners BCDA and PPMC<sup>[29]</sup>.

Petitioners had raised the following arguments:

**"23. The subject of the unlawful detainer complaint are in fact covered catwalks** built (*sic*). They are **used by the general public and are for public purpose and also used for LCMC's stevedoring activities**. There has never been any unlawful deprivation to speak of. Patently, **such covered catwalks and walkways**, built way back in July of 1998, clearly established by PPMC's evidence, **were for the use of all concerned, more important, those of LCMC's personnel. Petitioners are not occupying these structures as they are merely covered catwalks and walkways**. The filing of the unlawful detainer suit was clearly without any purpose, but to solely saddle and irritate Petitioners. The properties where these walkways are located were included in the properties currently under expropriation."<sup>[30]</sup> (*Emphasis Supplied*)

Defeating petitioners' contentions however, is that despite the fact that the covered walkways were being used for public purposes, respondent LCMC was the owner of the subject properties, as was evidenced by TCT Nos. T-3651<sup>[31]</sup>, T-4244<sup>[32]</sup>, and T-5220<sup>[33]</sup>. The existence of the titles in turn, was admitted<sup>[34]</sup> by petitioners in their respective Answers<sup>[35]</sup> before the MTCC, and was as stipulated upon by the parties

during the Pre-Trial Conference. All of these were as also found by the MTCC, which findings were affirmed by the RTC, to wit:

"During the pre-trial conference, **the parties agreed on the following stipulation of facts** and statement of issues:

- 1) Identities of the plaintiff and the defendants and their capacity to sue and be sued;
- 2) That **the defendants admitted only as to the existence of the title(s)**<sup>[36]</sup> **enumerated in paragraph 4 of the complaint;**"<sup>[37]</sup> (*Emphasis Supplied*)

As the owner of the subject properties, respondent LCMC therefore had the right to possess the properties to the exclusion of petitioners<sup>[38]</sup>, as is explicitly recognized under Article 428 of the Civil Code, which provides:

*"Article 428, Civil Code of the Philippines. The owner has the right to enjoy and dispose of a thing, without other limitations than those established by law.*

**The owner has also a right of action against the holder and possessor of the thing in order to recover it."** (*Italics was made in the original, Emphasis Supplied*)

Here, petitioners BCDA and PPMC<sup>[39]</sup> took possession of the subject properties by mere tolerance or permission of respondent LCMC by the latter having impliedly allowed petitioners to construct the covered walkways without any contract<sup>[40]</sup>. Petitioners' possession became unlawful when they failed to vacate the subject properties upon respondent's demand<sup>[41]</sup>. As a result, petitioners had unlawfully deprived respondent LCMC of its right to possess the subject properties.<sup>[42]</sup>

All of these matters were as also found by the RTC in its assailed Decision<sup>[43]</sup> dated March 28, 2005, as follows:

**"These allegations sufficiently make out a case for unlawful detainer. Plaintiff-appellee alleged ownership over the subject properties** as evidenced by Transfer Certificate of Titles in its name. **Defendants-appellants, by tolerance or permission, occupied and erected covered and paved catwalks, depriving plaintiff-appellee of the possession of said properties. Plaintiff-appellee, through counsel, demanded defendants-appellants to vacate the properties; and notwithstanding such demands, defendants-appellants refused to vacate the same.** The allegations therein nonetheless amounts to unlawful withholding of the subject properties by the defendants because they continuously refused to vacate the properties even after the plaintiff-appellee's counsel had already sent them notice to the effect.

xxx

The defendants-appellants claimed that the covered and paved catwalks and walkways are not occupied and were built not solely for the use of