

SIXTH DIVISION

[CA-G.R. SP. NO. 125973, June 18, 2014]

**SPS. CANDIDO GOMEZ, SR., AND CRISTINA GOMEZ, SPS.
ANTONIO MALLARI AND EDNA MALLARI AND ALL PERSONS
CLAIMING RIGHTS UNDER THEM, PETITIONERS, VS. DRA.
DOLORES OLIVEROS AND DR. ALBERT OLIVEROS FOR
THEMSELVES AND AS ATTY-IN-FACT OF CO-OWNERS/SIBLINGS
LAURO, ROMEO, GERARDO, JOVITO, VENUS AND RODOLFO, ALL
SURNAMED OLIVEROS, RESPONDENTS.**

D E C I S I O N

CRUZ, R.A., J.:

This is a Petition for Review under Rule 42 of the Rules of Court assailing the Decision dated March 5, 2012^[1] in Special Civil Case No. 11-1143 for Ejectment with Damages and application for the issuance of a preliminary injunction, rendered in the exercise of the appellate jurisdiction of the Regional Trial Court ("RTC") of Antipolo City, Branch 95 and the Order dated June 29, 2012^[2] denying reconsideration thereof. The RTC affirmed the decision of the lower court which: (1) orders petitioners and all persons claiming rights against the respondents to immediately vacate the subject property and deliver possession thereof to the respondents; (2) orders petitioners to pay respondents monthly rentals of P5,000.00 from March 2011 to the time they actually vacate the property; (2) attorney's fees in the amount of P20,000.00.

THE ANTECEDENTS

Respondents Spouses Dolores Oliveros and Albert Oliveros, and co-owners Lauro, Romeo, Gerardo, Jovito, Venus and Rodolfo, all surnamed Oliveros, are the registered owners of a parcel of land located at San Luis, Antipolo with an area of 19,515 square meters more or less covered by Transfer Certificate of Title No. R-43706^[3] of the Registry of Deeds for Antipolo City. The parcel of land is covered by Tax Declaration of Real Property with Number AC-015-19347.^[4]

Sometime in 1988, Spouses Candido and Cristina Gomez entered the property and erected a shanty. They pleaded to Macario Oliveros, the predecessor-in-interest of respondents, that they be allowed to stay in the meantime because they have been recently ejected from the adjacent property by its owner, Abel Mata Nalog. Macario Oliveros took pity and allowed Spouses Candido and Cristina Gomez to build their shanty on the subject property under the condition that they will immediately vacate the same upon advise and will protect the property from intruders.

In the year 2000, a typhoon hit the area and the shanty was destroyed. Spouses Candido and Cristina Gomez asked the permission of Macario Oliveros to allow them to stay at the rest house within the subject property until they are able to rebuild

their shanty. Again, Macario Oliveros allowed them to use the rest house temporarily and on the condition that they would vacate the same when needed by the family.

Upon his death, the heirs of Macario Oliveros, (herein respondents) tolerated the continued possession and occupation of the subject property by Spouses Candido and Cristina Gomez. However, when one of the heirs of Macario Oliveros attempted to harvest fruits on the subject property, he was threatened by Candido Gomez. Moreover, Spouses Candido and Cristina Gomez, in connivance with Spouses Antonio Mallari and Edna Mallari, who represented themselves to be the owners of the subject property, rented a portion thereof to Manila Water. Consequently, respondents verbally demanded that they vacate the subject property and filed a case before the Tanggapan ng Lupon Tagapamayapa of Brgy. San Luis, Antipolo City. Since the parties failed to amicably settle the matter, the barangay issued a Certification to File Action. Respondents also sent the following letters to the petitioners: (1) Demand to Vacate dated May 3, 2010 received by Candido Gomez on May 18, 2010; (2) Demand Letter to Vacate dated July 14, 2010 received on July 20, 2010 by Alex Celine Estrada; (3) Demand Letter to Vacate dated February 14, 2011 received on February 18, 2011 by Cristina Gomez. Despite receipt of the last demand letter, petitioners refused and continue to refuse to vacate the subject property. Petitioners even recruited illegal settlers to erect shanties on the subject property.

This prompted respondents to file a verified Complaint^[5] for Ejectment with Damages and application for the issuance of a Preliminary Injunction against Spouses Candido and Cristina Gomez, Spouses Antonio Mallari and Edna Mallari and all other persons claiming rights under them before the Municipal Trial Court in Cities ("MTCC") of Antipolo City, Branch 1.

On September 1, 2011, the MTCC rendered a decision^[6] in favor of the respondents and ordered: (1) petitioners and all persons claiming rights under them to immediately vacate the subject property and deliver possession thereof to the respondents; (2) petitioners to pay respondents: (a) monthly rental of P5,000.00 from March 2011 up to the time they actually vacate the subject property; and (b) attorney's fees in the amount of P20,000.00 and costs of the suit.

It ruled that it has jurisdiction over the subject matter of the case because the complaint contains the following allegations: (1) Respondents are the registered owners of the subject property; (2) Petitioners were allowed to stay on the property by tolerance; (3) Possession of the property by the petitioners became illegal upon termination of their right to possess the same thru a written demand letter to vacate dated February 14, 2011 duly received on February 18, 2011; (4) The complaint was filed on May 20, 2011, within one year from the written demand to vacate. The MTCC's findings reveal that the respondents, as registered owners of the subject property, have the possessory rights over the same. Prior possession of the property is immaterial in an unlawful detainer case. Petitioners occupied the subject property by tolerance of the respondents. Hence, they are necessarily bound by an implied promise that they will vacate upon demand.

On appeal, the RTC of Antipolo City, Branch 95, affirmed the decision of the MTCC. The RTC ruled that petitioners failed to establish that they are the owners of the subject property. Jurisdiction was properly acquired by the MTCC based on the allegations in the complaint. Respondents were able to satisfactorily establish that the property subject of the case is the same property actually registered under their

names. They were able to trace the transfer of ownership over the subject property from their predecessors-in-interest to them. On the other hand, petitioners were not able to establish ownership over the subject property. They were not able to establish their relationship to Ines Oliveros, the alleged original owner of the property that they are occupying. The RTC observed that the certificate of title presented by the petitioners was already canceled, subdivided and now belongs to different owners. The Assessor's Office also certified that the property registered under the name of Heirs of Severino Oliveros could not be identified or located. Furthermore, Spouses Candido and Cristina Gomez acknowledged that it was Macario Oliveros who allowed them to stay in the subject property. The RTC reiterated that prior physical possession is not necessary in an action for unlawful detainer. The MTCC has jurisdiction even if the petitioners raised the issue of ownership because it can receive evidence upon the question of title to property but solely for the purpose of determining the issue of possession.

THE ASSIGNED ERRORS

In assailing the decision and order rendered against them, petitioners pose the following queries,

I.

WHETHER OR NOT THE RTC ERRED IN NOT RESOLVING FIRST THE ISSUE OF OWNERSHIP AND THE LOCATION OF THE SUBJECT PROPERTY IN ORDER THAT A PROPER AND COMPLETE ADJUDICATION OF THE CASE MAY BE HAD;

II.

WHETHER OR NOT THE RTC ERRED IN DISREGARDING THE JUDICIAL ADMISSION OF THE RESPONDENTS AND THE CERTIFICATION ISSUED BY THE CITY ASSESSOR OF ANTIPOLLO CITY THAT THE PROPERTY OF THE RESPONDENTS IS LOCATED AT SITIO, BANABA, SAN LUIS, ANTIPOLLO CITY WHILE THE PROPERTY OCCUPIED BY PETITIONERS IS LOCATED AT SITIO MAGUEY, BRGY. SAN LUIS, ANTIPOLLO CITY;

III.

WHETHER OR NOT THE RTC ERRED IN DISREGARDING THE RULES ON JURISDICTION;

Petitioners claim that the property they are currently occupying belongs to their predecessor-in-interest, Antonio Oliveros Masangkay Mallari. Petitioners and their co-owners inherited the same from Ines Oliveros by intestate succession. They argue that the respondents' evidence namely Tax Declaration No. AC-015-19347 and Survey Plan Psd-04898 show that the property covered by their certificate of title is situated at Sitio, Banaba, Brgy. San Luis, Antipollo City whereas the property occupied by the petitioners is situated at Sitio Maguey, Antipollo City. The Certification issued by the City Assessor's Office of Antipollo City also states that the property covered by Tax Declaration No. AC-015-19347 is situated in Sitio Banaba, Brgy. San Luis, Antipollo City. Petitioners also presented a Google Earth Satellite Image which shows the location of the property covered by the Transfer Certificate of Title No. 53573 and Lot F-1652.

Petitioners contend that they have been in actual and continuous possession of the property for 60 years and they became the owner thereof upon the death of their mother Caridad Oliveros Masangkay on June 24 1986. Spouses Candido and Cristina Gomez acted as caretakers of the subject property for and on behalf of Spouses Antonio Mallari and Edna Mallari since 1970. The respondents should have brought the action for ejectment within one year from the alleged unlawful deprivation or some 40 years ago. For failure to do so, the case must be dismissed.

In their Comment^[7], respondents asseverate that the certificate of title from which petitioners derive their ownership over the subject property does not exist because it was canceled by Transfer Certificate of Title No. 53694 and thereafter subdivided into three titles namely, TCT No. 75951, TCT 75952 and TCT 75953. Respondents aver that the location of the property embraced in the Plat of Free Patent Survey of Severino Oliveros is at Brgy. San Isidro, Antipolo City. Respondents submitted a Subdivision Plan of FP1652 as surveyed for the Heirs of Paulino Oliveros which shows that the parcel of land was divided into 2 lots: (1) Lot A with an area of 19,515 square meters which is now the property covered by Transfer Certificate of Title No. R-43706; (2) Lot B with an area of 19,515 square meters which is the property inherited by the siblings of the grandparent of respondents, now denominated as Queenstown Subdivision. Respondents also furnished the RTC with a Certification dated March 30, 2011 from the City Assessor of Antipolo City to the effect that the property registered under the name of Heirs of Severino Oliveros does not exist. Respondents emphasize that the petitioners failed to show proof of ownership or title over the subject property namely a certificate of title, tax declaration and official receipt of payment of real estate taxes. On the other hand, they were able to show the following: (1) TCT No. R-43706 registered in their names; (2) Tax Declaration with No. 177-02-015-035-060/AC-015- 19347 registered in their names; and (3) Payment of real estate taxes as per Tax Clearance dated April 13, 2011. Furthermore, the certified true copy of the transcript of the hearing dated March 7, 2011 held before the Lupon Tagapamayapa of Brgy. San Luis, Antipolo City, reflects the categorical admission of Spouses Candido and Cristina Gomez that it was Macario Oliveros, the predecessor-in-interest of respondents, who allowed them to stay at the subject property. Respondents also presented a Certification dated August 10, 2011, showing the boundaries of their property.

Respondents argue that the MTCC acquired jurisdiction over the case based on the allegations made in the complaint. Moreover, the claim of ownership by petitioners did not divest the MTCC of its jurisdiction over the case.

OUR RULING

The petition lacks merit.

The allegations in the complaint make a case for unlawful detainer and the MTCC has validly acquired jurisdiction

Unlawful detainer is an action to recover possession of real property from one who illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied.^[8] The possession by the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess.^[9] The proceeding is summary in