



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 10, 2021 which reads as follows:

“G.R. No. 253226 (*Ayala Mandaluyong Homeowner’s Association, Inc. [AMHAI], represented by Marcelita K. Valdes v. Restituto S. Pamintuan, et al.*). – Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court (Rules), assailing the Decision² dated February 13, 2020 and Resolution³ dated August 24, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 161833.

Antecedents

Petitioner Ayala Mandaluyong Homeowner’s Association, Inc. (AMHAI) is the homeowner’s association of Ayala Homes, a residential subdivision in Mandaluyong City developed by the Insular Life Assurance Company, Ltd. (Insular) and Filipinas Life Assurance Co. (Filipinas).⁴ Two parcels of land were reserved as open spaces, including a lot located in Ilang-Ilang Street covered by Transfer Certificate of Title (TCT) No. 008-16174 (subject property). AMHAI has been overseeing the administration of the two until these were formally turned over by the Insular and Filipinas (now known as BPI-PHILAM Life Assurance Corp.) to AMHAI by virtue of the Deeds of Transfer dated February 7, 2013.⁵

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¹ *Rollo*, pp. 3-29.

² Penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Ruben Reynaldo G. Roxas; *id.* at 35-47.

³ *Id.* at 49-50.

⁴ *Id.* at 73.

⁵ *Id.* at 36-37, 63-68, 78.

Prior to the possession of Insular and Filipinas, a water deep well was installed in the subject property for the use of a nearby sugar refinery, Noah's Ark Sugar Refinery (NASR), the previous possessor of the subject property. In 1982, respondents Restituto Pamintuan and Emil Tejido (respondents) were employed by the sugar refinery to maintain the water deep well. They occupied the subject property. Their occupation was tolerated by the subsequent possessor, AMHAI, even after the water deep well ceased operating in 1997.⁶

In 2016, AMHAI asked respondents to vacate the subject property because they need to develop it for the benefit of the homeowners. They refused to heed AMHAI's demand. AMHAI sent a final demand letter⁷ dated November 7, 2016 yet respondents still refused to vacate the subject property. Hence, AMHAI instituted a complaint for unlawful detainer against respondents.⁸

In their Answer, respondents maintained that they were authorized to build their respective residences in the subject property because of their employment at NASR. Thus, between 1982 and 1983, Emilio Tejido and Restituto Pamintuan, with their respective spouses, began occupying the subject property. They claimed that the subject property would be donated to them as reward for their loyalty to NASR. In their defense, they argued that the elements of unlawful detainer were not present. Even assuming *arguendo* that the elements of unlawful detainer are present, they claim that AMHAI has no right to cause their ejection because it is not the registered owner of the subject property. They also alleged that there is no contract of lease between them and AMHAI.⁹

Ruling of the Metropolitan Trial Court

On February 12, 2018, the Metropolitan Trial Court (MeTC) rendered its Decision,¹⁰ the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Ayala-Mandaluyong Homeowners Association, Inc. (AMHAI) against defendants Restituto Pamintuan, Juanita Pamintuan, Emil Tejido and Lolit Tejido and all other persons claiming rights under them.

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⁶ Id. at 78.

⁷ Id. at 75.

⁸ Id. at 77-80.

⁹ Id. at 95-96.

¹⁰ Penned by Presiding Judge John Benedict D. Medina; id. at 92-100.

Accordingly, defendants are hereby ordered to:

- (1) ***Immediately vacate and peacefully surrender the possession*** of the ***open spaces*** covered by TCT No. 008-16174, specifically located at Ilang-Ilang Street, Ayala Homes, Brgy. Barangka Drive, Mandaluyong City, to the plaintiff;
- (2) ***Pay the actual damages*** for the use and occupancy of the subject property in the amount of ***Five Thousand Pesos (P5,000.00) per month*** from the date of the last demand to vacate, November 14, 2016, until completely vacated and fully surrendered;
- (3) ***Pay the attorney's fees*** fixed in the reasonable amount of Ten Thousand Pesos (P10,000.00);
- (4) Pay the costs of suit.

SO ORDERED.¹¹

The MeTC found that AMHAI satisfied all the jurisdictional facts alleged in the complaint because: (1) The entry of respondents is lawful from the beginning as they were employees of NASR in charge of taking care of the water deep well and that they continued to occupy it despite its closure in 1997 under the belief that it was donated in their favor;¹² (2) AMHAI sent a demand letter ordering them to vacate the premises;¹³ (3) They continued to occupy the disputed property despite the demand on the basis of two documents denominated as Deed of Conditional Sale; (4) The complaint was filed within one year from the last demand.¹⁴

For the use and occupation of the disputed property, the MeTC ordered respondents to pay AMHAI ₱5,000.00 per month from the date of the last demand to vacate, November 14, 2016, until completely vacated and fully surrendered. Likewise, respondents were ordered to pay ₱10,000.00 as attorney's fees.¹⁵

Ruling of the Regional Trial Court

On March 6, 2019, the RTC rendered its Decision,¹⁶ the dispositive portion of which states:

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¹¹ Id. at 99-100.

¹² Id. at 98.

¹³ Id.

¹⁴ Id. at 99.

¹⁵ Id. at 99-100.

¹⁶ Penned by Judge Ofelia L. Calo; id. at 130-139.

WHEREFORE, premises considered, judgment is hereby rendered **AFFIRMING** the *Decision* dated February 12, 2018 of the Metropolitan Trial Court of Mandaluyong City, Branch 96 with **MODIFICATION** only in so far as the award of attorney's fees is **DELETED**.

Let the records of this case be remanded to the court a quo for proper disposition.

SO ORDERED.¹⁷

The RTC agreed with the ruling of the MeTC that AMHAI sufficiently alleged in its complaint jurisdictional facts constituting unlawful detainer. The RTC also concurred with the MeTC in ruling that respondents' continued occupation of the subject property was by mere tolerance of AMHAI. The RTC considered the Deed of Transfer executed by The Insular Life Assurance Company, Ltd. and AMHAI as proof that the latter has right to possession over the subject property since the transfer was made on February 7, 2013. For the RTC, this proves that since then up to the time before the demand to vacate, AMHAI tolerated respondents' occupation of the subject property.¹⁸

The RTC upheld the compensation for the use and occupation of the subject property and the cost of suit but deleted the attorney's fees awarded by the MeTC. In deleting the attorney's fees, the RTC explained that there was no basis to award attorney's fees because MeTC Decision did not elaborate nor explain its justification but simply stated it in the dispositive portion.¹⁹

In an Order²⁰ dated June 24 2019, the RTC denied the Motion for Reconsideration of respondents²¹

The RTC reiterated that AMHAI was able to sufficiently allege a cause of action for unlawful detainer. The RTC also emphasized why the Deeds of Conditional Sale presented by respondents, which were executed after the unlawful detainer case was initiated, were not given evidentiary value. The RTC also pointed out that the purpose of the evidence of respondents, the Certificate of Occupancy and Plan, was not mentioned in any of the admitted pleadings. TCT No. 38400, which to the mind of this court was presented purportedly to prove

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¹⁷ Id. at 139.

¹⁸ Id. at 136-137.

¹⁹ Id. at 139.

²⁰ Penned by Judge Ofelia L. Calo; id. at 140-144.

²¹ Id. at 144.

that this title covers the subject property, was only provisionally marked since the original copy was not presented.²² More importantly, the RTC emphasized that, in ejectment cases, the issue of ownership may only be resolved provisionally.²³

The RTC also explained that the Supplemental Answer and Motion for Reconsideration of respondents cannot be considered because these are prohibited pleadings under the Rules on Summary Procedure.²⁴

Ruling of the Court of Appeals

On February 13, 2020, the CA rendered its Decision,²⁵ the dispositive portion of which states:

WHEREFORE, premises considered, the petition filed by petitioners is **GRANTED**. The Decision dated March 6, 2019 and Order dated June 24, 2019 of the Regional Trial Court of Mandaluyong, Branch 211, in the case docketed as Civil Case No. 23856-R00-00, are **REVERSED**. The complaint filed by the respondent for unlawful detainer is **DISMISSED** for lack of merit.

SO ORDERED.²⁶

The CA disagreed with the ruling of the RTC that the MeTC has jurisdiction over the case. The CA held that AMHAI failed to prove by preponderance of evidence that the occupation of respondents over the disputed property was through its tolerance or permission. The CA pointed out that it is not clear how respondents entered the property, who granted entry, and how entry was effected. It was also not shown who constructed the deep well and the terms of the agreement between AMHAI's predecessor and NASR as to its use. The CA explained that tolerance cannot be presumed from the owner's failure to eject the occupants from the land. For the CA, the proper remedy is either an *accion publiciana* or *accion reivindicatoria*.²⁷

As regards the prayer of respondents for the award of moral damages, the CA found no legal nor factual basis to award the same pursuant to Articles 2217, 2219, and 2220 of the Civil Code. The CA

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²² Id. at 142.

²³ Id. at 142-143.

²⁴ Id. at 143.

²⁵ Supra note 2.

²⁶ *Rollo*, pp. 46-47.

²⁷ Id. at 43-44.

stated that they failed to present any evidence to substantiate their claim that they sustained moral damages.²⁸ Since respondents were held not to be entitled to moral damages, the CA also denied their claim for exemplary damages.²⁹

Attorney's fees were not awarded to respondents because they failed to sufficiently show that AMHAI acted in bad faith in pursuing the action for unlawful detainer. The CA explained that AMHAI cannot be faulted for asserting its right to occupy the subject property registered to it.³⁰

In a Resolution³¹ dated August 24, 2020, the CA denied the Motion for Reconsideration of AMHAI for lack of merit.³²

In the present petition,³³ AMHAI insists that the jurisdictional facts that constitute an unlawful detainer were sufficiently alleged and that it successfully proved all its assertions by preponderance of evidence.³⁴ AMHAI maintains that it established that respondents' occupation of the subject property was merely by its tolerance or permission.³⁵

Issue

The issue to be resolved is whether the allegations in the complaint sufficiently state a cause of action for unlawful detainer.

Ruling of the Court

The petition is denied.

This is not a proper unlawful detainer case. In unlawful detainer cases, the following key jurisdictional facts must be alleged and sufficiently established: (1) initially, possession of the property by the defendant was by contract with or by tolerance of the plaintiff; (2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession; (3)

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²⁸ Id. at 45-46.
²⁹ Id. at 45-46.
³⁰ Id. at 46.
³¹ Supra note 3.
³² *Rollo*, pp. 50.
³³ Id. at 9-29.
³⁴ Id. at 22-25.
³⁵ Id. at 25-27.

thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and (4) within one year from the last demand to vacate the property, the plaintiff instituted the complaint for ejectment.³⁶

A careful scrutiny of the complaint reveals that AMHAI's cause of action is not for unlawful detainer. The respondents have been occupying the subject property since 1982, during their employment at NASR who was previously in possession of the subject property. NASR was the prior possessor of the subject property who tolerated respondents' possession over the same property. Their initial possession was not by virtue of any contract with or by tolerance of AMHAI. If there is any form of tolerance given to them, it was after February 7, 2013, the date of the execution of the Deed of Transfer of the subject property in favor of AMHAI since it is supporting its claim of possessory right over it based on said document. This is not the possession by tolerance contemplated in Section 1, Rule 70 of the Rules.

In unlawful detainer, there must be an allegation in the complaint of how the possession of defendant started or continued, that is, by virtue of lease or any contract, and that defendant holds possession of the land or building after the expiration or termination of the right to hold possession by virtue of any contract, express or implied. Here, unlawful detainer must be ruled out as there was no prior lease agreement between the parties (express or implied), and the demand to vacate by AMHAI did not make the respondents its tenants.

Although the possession of the respondents was tolerated by AMHAI since 1997, the nature of the prior possession given by NASR, the employer of respondents, cannot be ascertained. Possession by tolerance which is a ground for unlawful detainer must be present from the start of respondents' possession over the property. Moreover, the respondents cannot be summarily dispossessed of the improvements they introduced and allowed by NASR in the subject property through an ejectment case.

Noticeably, the underlying issue that the parties seek to resolve in this case is not mere physical possession over the disputed property. This is a dispute between one who claims possessory right as a result of the permission granted by their former employer NASR who

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³⁶ *Suarez v. Sps. Amboy, Jr.*, 729 Phil. 315, 330 (2014); RULES OF COURT, Rule 70, Section 1.



previously had possession over the property, and another who claims possession as a result of the Deeds of Transfer executed in its favor. It encompasses the issue of legal possession and ownership, a subject matter beyond the scope of the MeTC. Thus, this is not a proper ejectment case.

Since the complaint did not satisfy the jurisdictional requirements to constitute a valid cause for unlawful detainer, the CA was correct in ruling that the MeTC was without jurisdiction to hear and decide the case.

Nonetheless, while the allegations of the complaint do not sufficiently aver facts constitutive of unlawful detainer, AMHAI is not left without a remedy. In *Heirs of Demetrio Melchor v. Julio Melchor*,³⁷ the Court ruled, citing *Ong v. Parel*,³⁸ that:

The jurisdictional facts must appear on the face of the complaint. When the complaint fails to aver facts constitutive of forcible entry or unlawful detainer, as where it does not state how entry was effected or how and when dispossession started, as in the case at bar, the remedy should either be an *accion publiciana* or an *accion reivindicatoria* in the proper regional trial court.

If private respondent is indeed the owner of the premises subject of this suit and she was unlawfully deprived of the real right of possession or the ownership thereof, she should present her claim before the regional trial court in an *accion publiciana* or an *accion reivindicatoria*, and not before the municipal trial court in a summary proceeding of unlawful detainer or forcible entry. For even if one is the owner of the property, the possession thereof cannot be wrested from another who had been in the physical or material possession of the same for more than a year by resorting to a summary action for ejectment. This is especially true where his possession thereof was not obtained through the means or held under the circumstances contemplated by the rules on summary ejectment.³⁹ (Emphasis supplied, italics in the original)

Accordingly, the contending claims of possessory rights between AMHAI and respondents cannot be resolved in a summary action such as an unlawful detainer case but rather in an *accion publiciana* or an *accion reivindicatoria*.

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³⁷ 461 Phil. 437 (2003).

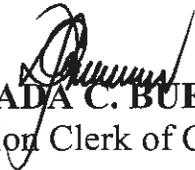
³⁸ 407 Phil. 1045, 1056-1057 (2001).

³⁹ *Heirs of Melchor v. Melchor*, 461 Phil. 437, 446-447 (2003).

WHEREFORE, the petition is **DENIED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *2-11/21*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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