



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**SPOUSES ROMEO T. JAVIER and
ADORINA F. JAVIER,**
Petitioners,

G.R. No. 186204

Present:


- versus -

VELASCO, JR., J., *Chairperson,*
PERALTA,
BERSAMIN,*
PEREZ,** and
JARDELEZA, JJ.

**SPOUSES EVANGELINE PINEDA
DE GUZMAN and VIRGILIO DE
GUZMAN, ARNEL PINEDA,
EDGAR PINEDA, HENRY PINEDA
and REGINO RAMOS,**
Respondents.

Promulgated:

September 2, 2015

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DECISION

PERALTA, J:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision¹ of the Court of Appeals (CA), dated September 24, 2008, and the Resolution² dated January 7, 2009, denying petitioner's motion for reconsideration thereof, be reversed and set aside.

The antecedent facts are as follows:

* Designated Acting Member in lieu of Associate Justice Martin S. Villarama, Jr., per Raffle dated September 14, 2014.

** Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

¹ Penned by Associate Justice Arturo G. Tayag, with Associate Justices Martin S. Villarama, Jr. (now a member of the Court) and Noel G. Tijam, concurring.

² *Id.*

On April 8, 2005, petitioners filed with the Municipal Trial Court in Cities of Cabanatuan City (*MTCC*), a Complaint against respondents for Ejectment, pertinent portions of which contain the following allegations:

x x x x

2. Plaintiffs are the absolute owners of a parcel of land at Bakod Bayan, Cabanatuan City with an area of 740 square meters and covered by Transfer Certificate of Title No. T-113559, a copy of which is hereto attached as Annex "A" to "A-1";

3. Plaintiffs were in prior physical possession of the entire property;

4. On December 13, 2004, the above-named defendants unlawfully entered a portion of said land and arrogated unto themselves ownership thereof by enclosing the same with concrete hollow blocks (chb) fence as shown by a copy of picture herewith attached as Annex "B";

5. In the process, defendants, by using a chainsaw, even cut the old and big Java plum (duhat) tree of plaintiff on the subject land, had it sawn, and took it for their own personal purposes.

6. While the concrete hollow blocks (chb) fence was being erected, plaintiff Romeo T. Javier made a request to the Office of the City Engineer, Cabanatuan City to conduct a relocation survey so as to prove to defendants the metes and bounds of plaintiffs' property and in the said survey it appears that defendants have encroached an area of 121.5434 square meters on plaintiffs' land and 26.43 square meters on the road right of way (Copy of Memorandum of Honorio G. Garcia, Engineer IV, Geodetic Services Division for the City Engineer of Cabanatuan City containing this information, among others, is appended hereto as Annex "C");

7. The above findings, however, and several demands made by plaintiffs and their father, Gregorio Javier, to defendants for them to desist from occupying subject land were just ignored by defendants and they persisted in completing their illegal acts;

8. Referral of the matter by complainants to the Barangay officials of Bakod Bayan, Cabanatuan City similarly failed as evidenced by a Certification to that effect herewith attached as Annex "D";

9. Plaintiffs suffered and have been continuously suffering damages because of the acts of defendants as narrated above;

10. Further, the construction by defendants of the concrete hollow blocks (chb) fence is violative of the National Building Code (PD 1096) and for which defendant Eva Pineda was charged by George G. Garcia of the Cabanatuan City Engineers' Office as shown by an Affidavit-Complaint, Information for violation of PD 1096 and Warrant of Arrest attached respectively as Annexes "E", "F" to "F-1" and "G";

11. In cutting the above-mentioned old and big Java plum (duhat) tree, defendants likewise violated Section 68 of Presidential Decree No. 705, (The Revised forestry code of the Philippines) as amended by E.O. No. 277 *viz.*,

Section 68. Cutting, gathering and or collecting timber or other forest products without license. – Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code.... x x x. (underscoring supplied)

(Copies of Certification issued by the Community Environment and Natural Resources Office (CENRO) to the effect that defendants did not secure the necessary cutting permit from said government agency are attached as Annexes “H” and “I”)

12. Defendants have no title over the adjacent lot where they are staying at the time they illegally occupied and fenced the subject portion of plaintiff’s land and even up to the filing of this suit;

13. Due to the illegal acts committed by defendants, plaintiffs were deprived of the use and occupation of the land and for which they should be paid by defendants damages in the amount of no less than ₱10,000.00 and for taking the Java plum (duhat) free against the will of the plaintiffs, they should likewise be ordered to pay a minimum amount of ₱15,000.00;

14. In order to protect their rights, plaintiffs were forced to litigate and for that purpose constrained to secure the services of counsel to whom they paid an amount of ₱20,000.00 for his acceptance fee and will pay ₱2,000.00 for every appearance in court. In filing this suit, they incurred an amount of ₱4,220.00 for filing fee and are likely to spend an amount of at least ₱15,000.00 as litigation expenses;

15. The assessed value of the 740-square-meter land of plaintiffs is ₱2,480.00 as proven by a copy of Tax Declaration herewith attached as Annex “J”;³

Respondents, on the other hand, alleged in their Answer that the area they fenced in had always been in their possession as it was within the boundary of the lot they had been occupying. They maintained that the disputed area had originally been enclosed by a barbed wire fence and respondents were merely replacing the barbed wires with concrete hollow blocks, without changing or moving the boundaries. While this case was pending before the trial court, the lot occupied by respondents was titled in the name of their sister, Adoracion Pineda Ilustre. Respondents questioned the survey conducted by the Office of the City Engineer, pointing out that it was done unilaterally, without taking into consideration the boundaries of

³ *Rollo*, pp. 73-76.

their lot as described in the Transfer Certificate of Title registered in the name of their sister. After due proceedings, the MTCC issued its Decision dated March 15, 2007, dismissing the complaint on the ground that the case involved a boundary dispute, thus, a plenary action within the competence of the Regional Trial Court is the proper remedy.

Petitioners then appealed to the Regional Trial Court (*RTC*), and in a Decision dated October 19, 2007, said court disposed as follows:

WHEREFORE, the decision appealed from is hereby reversed and set aside. Judgment is hereby rendered in favor of the plaintiffs-appellants [herein petitioners], and against the defendants-appellees, ordering the latter as follows:

1. Defendants and all persons claiming right under them to vacate the premises in question by removing the concrete fence they have constructed within the plaintiffs' lot and restore possession of the same peacefully to the plaintiffs;

2. Defendants to reimburse to plaintiffs the amount of ₱4,220.00 that plaintiffs paid as filing fees in the lower court plus the amount of ₱1,515.00 that plaintiffs paid as appeal docket fee as evidenced by the corresponding official receipts issued by the Clerk of Court of the MTCC of Cabanatuan City;

3. To refund to plaintiffs the amount of ₱20,000.00 for attorney's fees; and

4. The amount of ₱5,000.00 representing the actual damages that plaintiffs incurred due to the unlawful cutting down of the duhat tree belonging to the plaintiffs.

SO ORDERED.⁴

Aggrieved by the foregoing judgment, herein respondents elevated the case to the CA. In a Decision dated September 24, 2008, the CA, in turn, reversed and set aside the RTC Decision and reinstated the MTCC Decision. Herein petitioners' motion for reconsideration of the CA Decision was denied in the Resolution dated January 7, 2009.

Thus, petitioners filed the instant petition, wherein the following issues are raised: (1) whether the action filed by petitioners qualify as one for forcible entry based on the allegations in the complaint; (2) whether the remedy of petitioners should be an action for recovery of possession and not one for ejectment; and (3) which court has jurisdiction in a boundary dispute.

⁴

Id. at 63.

The petition lacks merit.

At the outset, it should be made clear that there is absolutely no issue regarding the MTCC's jurisdiction to take cognizance of petitioner's complaint for ejectment. It is true that petitioners alleged in their complaint that they had prior possession of the contested area and, thus, the MTCC properly acted on the case, conducting the necessary summary proceedings. However, after their respective pleadings and evidence were presented by the contending parties before the MTCC as a trial court, it found that the case actually involved a boundary dispute, and thus, the MTCC dismissed the case. It should be emphasized that the dismissal was **not** due to lack of jurisdiction of the court over the complaint, but rather, due to petitioners' failure to prove that they had a proper case for ejectment. The case was dismissed on the ground of lack of merit, not lack of jurisdiction.

Likewise, the MTCC and the CA are correct that the meat of the controversy between herein parties is the actual boundaries or the metes and bounds of their respective lots. On this matter, *Manalang v. Bacani*⁵ is quite instructive:

x x x **a boundary dispute must be resolved in the context of *accion reivindicatoria*, not an ejectment case.** The boundary dispute is not about possession, but encroachment, that is, whether the property claimed by the defendant formed part of the plaintiff's property. **A boundary dispute cannot be settled summarily under Rule 70 of the *Rules of Court*,** the proceedings under which are limited to unlawful detainer and forcible entry. In unlawful detainer, the defendant unlawfully withholds the possession of the premises upon the expiration or termination of his right to hold such possession under any contract, express or implied. The defendant's possession was lawful at the beginning, becoming unlawful only because of the expiration or termination of his right of possession. **In forcible entry,** the possession of the defendant is illegal from the very beginning, and **the issue centers on which between the plaintiff and the defendant had the prior possession *de facto*.**⁶

Opposing possessory rights over certain areas of adjacent lots, arising from claims of ownership thereof, cannot be resolved in a summary action such as an ejectment suit.⁷ The issues involved in such a controversy should be fully threshed out in an action like *accion reivindicatoria*,⁸ especially when plaintiff fails to establish actual prior possession. In a much earlier ruling of this Court, it was already held therein that "[i]f [a party] 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

⁵ G.R. No. 156995, January 12, 2015.

⁶ *Id.* (Emphasis supplied)

⁷ *Pagadora v. Ilao*, 678 Phil. 208, 231 (2011).

⁸ *Manalang v. Bacani, supra.*

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.”⁹

WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals, dated September 24, 2008, and its Resolution dated January 7, 2009, are hereby **AFFIRMED**.

SO ORDERED.

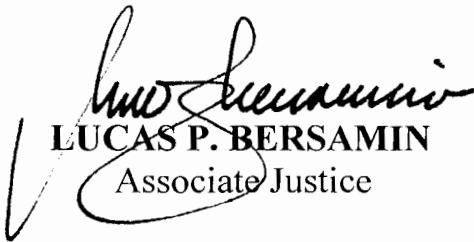


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice




FRANCIS H. JARDELEZA
Associate Justice

⁹ *Sarmiento v. Court of Appeals*, 320 Phil. 146, 156 (1995).

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice