



Republic of the Philippines
SUPREME COURT
 Manila

CERTIFIED TRUE COPY
Welford Lopez
 WILFORD LOPEZ
 Division Clerk of Court
 Third Division
 SEP 22 2016

THIRD DIVISION

HAIDE BULALACAO-SORIANO,
 Petitioner,

G.R. No. 213187

Present:

- versus -

VELASCO, JR., J., Chairperson,
PERALTA,
PEREZ,
REYES,
JARDELEZA, JJ.

ERNESTO PAPINA, represented by
ROSEMARY PAPINA-ZABALA,
 Respondent.

Promulgated:

August 24, 2016

X-----*Welford Lopez*-----X

DECISION

VELASCO, JR., J.:

Nature of the Case

For resolution is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal of the Court of Appeals (CA) Decision¹ and Resolution, dated October 30, 2013 and May 29, 2014, respectively, in CA-G.R. SP No. 113098 upholding the eviction of petitioner from the lot over which the latter claims part ownership.

The Facts

Involved herein is a 201-sq.m. parcel of residential land situated in Barangay VII, Daet, Camarines Norte, originally owned by a certain Tomas de Jesus (De Jesus), covered by Tax Declaration (TD) No. 2172.² The subject property was sold by the heirs of De Jesus to respondent Ernesto Papina (Ernesto) and his brother, Manuel Papina (Manuel), for ₱15,000, as evidenced by a document denominated as "Extrajudicial Settlement of Estate

¹ Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Japar B. Dimaampao and Victoria Isabel A. Paredes.

² *Rollo*, p. 58. The property is particularly described as follows: "A parcel of residential land without improvements, containing an area of 250 square meters, more or less, situated in Vinzons Avenue (Mercedes Road), Barangay 7, Daet, Camarines Norte. Bounded on the N. by the property of Angel Racoma, on the E. by the property of Fructoso Suzara, on the S. by Mercedes Road and on the W. by Rosario vda de Lukban with visible limits indicated by the concrete stone monument on the corners then declared under Tax. Dec. no. 2172 Tomas de Jesus, assessed at P3,380.00 with market value of P11,250.00."

with Sale.”³ The tax declarations covering the property, however, remained in the name of De Jesus.

Thereafter, respondent’s father allowed petitioner Haide Bulalacao-Soriano (Haide) to stay and build a house on the lot, on the condition that she would surrender possession thereof to the co-owners should the latter need the property. In the meantime, Ernesto and Manuel agreed not to partition the property and remain as co-owners thereof.⁴

In 1993, Ernesto and Manuel mortgaged the property to Haide to secure a ₱25,000 loan, payable within five (5) years, for which they executed a *Sanglaan ng Lupa na may Karapatan sa Nag Mamay-ari (Sanglaan)*.⁵ By virtue of the *Sanglaan*,⁶ petitioner’s possession of the subject property remained undisturbed.

Thereafter, sometime in 1998, Ernesto gave Manuel the amount necessary to pay the mortgage loan. The latter, however, appropriated the money, resulting in their failure to pay the loaned amount in full within the five-year period. Petitioner, nevertheless, did not foreclose the mortgage on the property, but remained in possession thereof.

To rectify the situation, Manuel, on August 22, 2000, without Ernesto’s knowledge, sold his share in the subject property to Haide for ₱100,000, payable on installment, with the understanding that she would continue to occupy the premises.⁷ This agreement is embodied in the *Kasunduan sa Bilihan ng Lupa*⁸ (*Kasunduan*) executed by petitioner and Manuel. The provisions of the contract pertinently read:⁹

1. Sa paglagda ng kasunduang ito, ang halagang DALAWAMPUNG LIBONG PISO (P20,000.00) at ang natitirang halagang WALUMPUNG LIBONG PISO (P80,000.00) ay babayaran sa pamamagitan ng hulugan.
2. Na kung mabayaran na ng IKALAWANG PANIG ang kabuoang halagang napagkasunduan dito ang UNANG PANIG ay obligadong magsagawa ng kasulatang biling tuluyan na pabor sa IKALAWANG PANIG.
3. **Na ang magbabayad sa kaukulang buwis ng lupa ay ang UNANG PANIG bago mailipat sa IKALAWANG PANIG.**
4. **Na ang IKALAWANG PANIG ang siyang may karapatan na mamosesyon at makinabang sa lugar na nasasaad sa itaas.** (emphasis added)

³ Id. at 25.

⁴ Id. at 118.

⁵ Id. at 118.

⁶ Id. at 27.

⁷ Id. at 118.

⁸ CA rollo, p. 130.

⁹ Rollo, p. 28.

Pursuant to the *Kasunduan*, Manuel received from petitioner the total amount of ₱91,500, including the ₱25,000 consideration of the loan, leaving a balance of ₱8,500,¹⁰ with the last installment made on June 27, 2001.¹¹

Anent the balance, Haide alleges that per their contract, it was Manuel's obligation to pay for the taxes due on the property and to transfer the property in her name. Manuel, however, refused to comply with his contractual obligation and instructed her instead to handle the transfers and that any and all amounts to be paid by her in effecting such shall be deemed as payment of the ₱8,500 balance.¹²

Acting on Manuel's alleged instruction, petitioner claims that she shelled out ₱20,780 beginning on April 7, 2005 to defray real property and estate taxes as well as other assessments due the Estate of De Jesus that were due since 1983.¹³ Said unpaid taxes, according to her, were not settled by the Papina brothers after they purchased the subject property from De Jesus. This amount of ₱20,780, according to petitioner, is more than enough to cover the balance.

Meanwhile, respondent counters that said instruction pertaining to the balance is a mere concoction, and maintains that the balance remains unpaid. There is no evidence, however, that Manuel demanded payment of any unpaid balance.

In March 2002, intending to finally dissolve the co-ownership, the Papina brothers caused the survey of the property. Three years later, or on October 27, 2005, they entered into a Subdivision Agreement¹⁴ (Agreement) to partition the property into two (2) lots: respondent Ernesto's lot, Lot 1, with an aggregate area of 80 sq.m.; and Manuel's property, Lot 2, a 121-sq.m. tract.¹⁵ Per the Agreement, the portion that became Lot 1, respondent Ernesto's lot, was where petitioner Haide's house was located. The Papina brothers, thus, informed petitioner of said agreement and its effect on her possession.

On March 19, 2006, respondent made a formal demand for petitioner to vacate the premises and surrender possession thereof to him, which demand was left unheeded. Two (2) months later, or on May 29, 2006, and because of petitioner's refusal to vacate the property, respondent sought judicial recourse via a Complaint for Ejectment before the Municipal Trial Court (MTC) of Daet, Camarines Norte, docketed as Civil Case No. 2777.

¹⁰ *CA rollo*, p. 161.

¹¹ *Rollo*, p. 40.

¹² *Id.* at 11.

¹³ *Id.* at 106.

¹⁴ *Id.* at 57.

¹⁵ *Id.* at 12.

Ruling of the Municipal Trial Court

On March 10, 2009, the MTC, in a Judgment,¹⁶ dismissed the complaint for lack of jurisdiction, holding that an element of unlawful detainer is not present since respondent's demand to vacate was grounded on petitioner's occupation of the portion that was not sold to her, and not on the termination of her right to hold possession by virtue of a contract or for non-payment of rent.¹⁷ The MTC likewise ruled "[t]he title to the land in question has been put in issue in a manner necessarily affecting the cause of action of the plaintiff. It is necessary, in order to settle the issue, that a determination of who between plaintiff and defendant, has the better right and title to the land in question, which matter is beyond the authority of this court to settle."¹⁸ It then suggested that the proper remedy for respondent is either an *accion publiciana* or *accion reivindicatoria*.

The dispositive portion of the MTC's Decision provides:

WHEREFORE, for lack of jurisdiction of this court, the complaint in this case is ordered to be as it is hereby DISMISSED.

No pronouncement as to costs.

SO ORDERED.¹⁹

Ruling of the Regional Trial Court

Upon elevation of the case, the Regional Trial Court, Branch 38 in Daet, Camarines Norte (RTC) rendered a Decision²⁰ on September 30, 2009 reversing the MTC's ruling. The RTC disagreed with the MTC and held that the elements for an action for unlawful detainer are present in the instant case. Thus:

x x x the Complaint sufficiently alleges *unlawful withholding of possession* of Lot 1 by [petitioner]. Although he initially never knew about Manuel allowing [petitioner] to stay in the premises, [respondent] did not do anything until the relocation survey and partition on the property. This is *tolerance*, which lasted until [respondent], verbally and in writing, demanded [petitioner] to vacate Lot 1. With these demands to vacate, [petitioner's] possession changed from tolerated occupancy to unlawful dispossession. The formal demand to vacate was made on March 19, 2006 and the Complaint was filed on May 29, 2006. Clear enough, these allegations comprise the jurisdictional requisites for unlawful detainer as laid down in Sections 1 and 2, Rule 70 of the Revised Rules of Court: (1) The defendant unlawfully withholds the possession of a certain land and building; (2) The withholding of possession must be after termination of the right of possession; and (3) The action should be brought within one (1) year from the date of demand.²¹ x x x

¹⁶ CA *rollo*, pp. 300-302. Penned By Judge Ramon A. Arejola.

¹⁷ Id. at 301.

¹⁸ *Rollo*, p. 60.

¹⁹ CA *rollo*, p. 302.

²⁰ Id. at 160-168. Penned by Judge Roberto A. Escaro.

²¹ *Rollo*, pp. 78-79.

The trial court likewise held that petitioner's right to possess the portion she occupies naturally expired when respondent and his brother executed the Subdivision Agreement.²² As a consequence, petitioner's right to possess had been confined to the area delineated and apportioned as Lot 2 for Manuel. To the RTC, the sale between petitioner and Manuel is of no moment, since, fully paid or not, the effect of the [petitioner's] contract can only be limited to the portion to be adjudicated to her predecessor-in-interest upon termination of the co-ownership.²³

The *fallo* of the RTC Decision reads:

WHEREFORE, the judgment of the Municipal Trial Court dated March 10, 2009 in Civil Case No. 2777 is hereby REVERSED and SET ASIDE. Appellee Haide Bulalacao-Soriano is ordered to vacate the subject property, Lot 1, and surrender possession thereof to appellant Ernesto Papina. No pronouncement as to costs.

SO ORDERED.²⁴

Reconsideration of the above Decision was denied by the RTC in its December 28, 2009 Order.²⁵

Ruling of the Court of Appeals

Ruling on petitioner's appeal, the CA, in the assailed Decision of October 30, 2013, found the petition to be bereft of merit and affirmed the ruling of the RTC, thus:

WHEREFORE, premises considered, the instant Petition is **DENIED**. The challenged Decision dated 30 September 2009 of the Regional Trial Court in Daet, Camarines Norte is **AFFIRMED**.

SO ORDERED.²⁶

Agreeing with the RTC, the CA ruled that: (1) Civil Case No. 2777 is, clearly, an unlawful detainer suit; (2) that petitioner, as co-owner of the property by virtue of Manuel's sale of his undivided share in the co-ownership in her favor, only acquired a proportionate share in the lot, not a definite portion thereof; and (3) a co-owner of an undivided interest cannot alienate or sell a specific or determinate part of the thing owned in common, because such right over the thing is represented by a mere aliquot or ideal portion thereof without any physical division.²⁷

²² CA rollo, p. 168.

²³ Id. at 123.

²⁴ Id. at 168.

²⁵ Rollo, pp. 201-207.

²⁶ Id. at 128.

²⁷ Id. at 126-128.

Aggrieved, petitioner filed a motion for reconsideration of the assailed CA Decision, which motion was denied by the appellate court in its assailed Resolution²⁸ of May 29, 2014.

The Issues

The decisive issue in the case at bar is whether or not respondent has a case for unlawful detainer.

Petitioner, in the main, argues that the unlawful detainer action will not lie against her by virtue of the sale in her favor of Manuel's share, making her the new co-owner thereof, vesting in her the right to possess the co-owned property subject of the instant dispute. She maintains that participation in the subdivision of the property is properly the right of the buyer of the aliquot share and not the seller thereof and that she was deprived of the said right when the Papina brothers entered into the Agreement without her knowledge, consent, authorization, or participation.

To counter respondent's assertion that ownership over Manuel's share has not yet been transferred to her for her failure to pay the full purchase price, she contends that the ₱8,500 balance had already been covered by the expenses she incurred in the transfer of the Tax Declaration of the *pro indiviso* share in her name, as per Manuel's instruction, totalling ₱20,780. And so, insisting that it is she who should have entered into the subdivision agreement with respondent and not Manuel after acquiring the latter's rights over his aliquot share in the co-ownership, petitioner refuses to vacate Lot 1 and seeks the adjudication thereof in her favor.

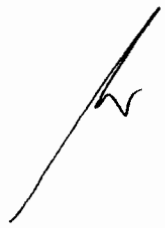
Respondent, for his part, insists that petitioner's right to possess the property ceased after respondent and Manuel entered into the Agreement. According to him, this Agreement which terminated the co-ownership ended petitioner's right to possess said portion, and gave him the right to have petitioner ejected from Lot 1. He maintains that the Subdivision Agreement is valid since at the time that they entered into such, petitioner has yet to complete the payment for Manuel's share. Noting that the *Kasunduan* is a Contract to Sell, Manuel remained to be the owner of his share in the co-ownership during the period material. He likewise posits that petitioner was duly informed of the planned partition, to which no objection was raised by the latter.

The Court's Ruling

The petition is impressed with merit.

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

²⁸ Id. at 138-139.



implied. 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.²⁹

The only issue involved in unlawful detainer proceedings is as to who between the parties is entitled to physical or material possession of the premises. Nevertheless, where the question of possession in ejectment proceedings cannot be resolved without deciding the issue of ownership, the courts have the power to provisionally resolve the issue of ownership but only for determining the issue of possession.³⁰

In the case at bar, petitioner raised the issue of ownership, arguing that it was already she, not Manuel, who was respondent's co-owner at the time the disputed Agreement was entered into. She claims that she acquired ownership of Manuel's share upon payment of the purchase price. Consequently, the Agreement entered into by Manuel, the former co-owner, is invalid.

Her postulation finds basis under Article 494 of the New Civil Code, which provides that "*each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned.*" The provision reveals that only co-owners have the capacity to enter into a subdivision/partition agreement, dissolving the co-ownership in the process. Thus, for a partition agreement to be valid, it should be entered into by the co-owners of the property. Any partition agreement entered into by one who is not a co-owner or one who was not authorized by a co-owner is null and void.³¹

In consonance therewith, the Court, in *Del Campo v. CA*, held that **the buyer of an undivided share became a co-owner at the time the sale was made in his or her favor.**³² **Upon conveyance, the fully-paid seller, who had lost all rights and interests in the property by alienating his entire undivided share, could no longer participate in the partition of the property.**³³ Instead, it is the vendee who steps into the shoes of the vendor as co-owner and acquires the latter's right over the property, including the right to enter into a partition agreement, by virtue of the consummated sale.

Thus, the pivotal issue to resolve herein then is whether or not petitioner has fully paid the contract price under the *Kasunduan*, which would render the subdivision agreement void, and uphold her right to stay in the subject property. As earlier discussed, though a case for unlawful detainer is concerned mainly with the determination of the parties' right to possess the subject property, the Court is not precluded from provisionally ruling on the issue of ownership to resolve the issue of possession.


²⁹ *Republic v. Sunvar Realty Development Corporation*, G.R. No. 194880, June 20, 2012, 674 SCRA 320, 341, citing *Delos Reyes v. Spouses Odenes*, G.R. No. 178096, March 23, 2011.

³⁰ B.P. 129, Sec. 33(2).

³¹ See *Heirs of Sevilla v. Sevilla*, G.R. No. 150179, April 30, 2003, 402 SCRA 501, 511-512.

³² G.R. No. 108228, February 1, 2001, 351 SCRA 1, 8.

³³ See *Lopez v. Ilustre*, 5 Phil. 567 (1906).



Here, petitioner insists that while it is clear from the third paragraph of the *Kasunduan* that the obligation to pay the taxes on the property is borne by Manuel, the latter eventually instructed her to perform the obligation in his stead and credit the same to her unpaid balance of ₱8,500. In compliance with the new covenant, petitioner spent ₱20,780, which is more than enough to cover the balance, rendering the sale fully paid.

We agree with petitioner.

There is preponderant evidence that petitioner paid the said amount. She submitted in evidence receipts of the amounts that she paid in having the Tax Declaration of half of the property in her name.³⁴

On the other hand, respondent failed to present any evidence that Manuel complied with his obligation to fully settle the taxes due on the property. Too, it is well to note that petitioner began paying the amount of ₱20,780 on April 7, 2005—six months prior to the execution by Manuel and Ernesto of the questioned subdivision agreement on October 27, 2005. Also, the fact of petitioner's payment of said amount was not contested by either Manuel or Ernesto.

The payments, duly supported by receipts, deserve greater weight over Manuel's bare denial that he instructed her to settle the unpaid taxes over the lot. It is elementary that bare allegations, unsubstantiated by evidence, are not equivalent to proof.³⁵


The foregoing circumstances, taken together with Manuel's omission to make any demand from petitioner for her to settle the unpaid portion of the purchase price, convince Us that herein petitioner's payment of said taxes due on the property was with Manuel's knowledge and consent.

This being the case, and as a matter of equity, We find it proper to provisionally uphold petitioner's claim that the amount paid for taxes due on the subject property be credited to her balance in the purchase price. As such, at the time Manuel entered into the Agreement, he no longer had the right to do so, having been divested of any right or interest in the co-owned property by virtue of the consummation of the sale. The subdivision agreement between Ernesto and Manuel is, therefore, defective, if not invalid, and cannot defeat petitioner's right to acquire Manuel's share in the property, his right to enter into the partition agreement, and the right to use the property owned in common in accordance with the purpose to which it is intended, i.e., as a residential property.

To rule differently in this case would result in injustice to petitioner who graciously loaned money to herein respondent and his brother, and who even did not exercise her right to foreclose the mortgage and obtain absolute

³⁴ *Rollo*, pp. 48-55.

³⁵ *Manaloto v. Veloso III*, G.R. No. 171365, October 6, 2010, 632 SCRA 347, 367.




ownership over the entire property, only to be later deceived by Manuel and deprived of her real rights over the subject property.

Be that as it may, it is well to remind the parties herein that the Court is merely provisionally resolving the issue of ownership as it is so closely intertwined with the issue of possession. Hence, We are not precluding the subsequent definitive resolution of the issues surrounding the property's ownership—including whether or not petitioner has indeed fully paid her obligation under the *Kasunduan*, whether or not she can validly offset her expenses against her indebtedness to Manuel, and whether or not the partition agreement is fraudulent—in a more appropriate proceeding, with Manuel impleaded as a party, and where the conflicting claims are best ventilated and the issues threshed out.

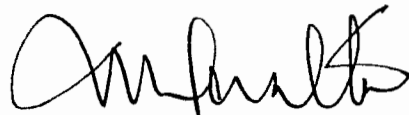
WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. Accordingly, the Decision dated October 30, 2013 and Resolution dated May 29, 2014 of the Court of Appeals in CA-GR. SP No. 113098 are hereby **REVERSED** and **SET ASIDE**. The Decision of the Municipal Trial Court of Daet, Camarines Norte in Civil Case No. 2777 dated March 10, 2009 is hereby **REINSTATED**. The Complaint for Unlawful Detainer is **DISMISSED**.

SO ORDERED.



PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:



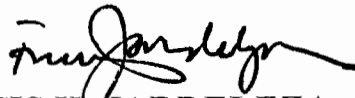
DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL BEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

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

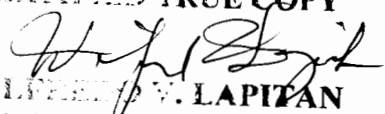
CERTIFICATION

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

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 22 2016