



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

HEIRS OF ALFONSO YUSINGCO,
 represented by their Attorney-in-Fact,
 TEODORO K. YUSINGCO,
 Petitioners,

G.R. No. 210504

Present:

CARPIO, J., Chairperson,
 PERALTA,
 PERLAS-BERNABE,
 CAGUIOA,
 REYES, JR., JJ.

- versus -

AMELITA BUSILAK, COSCA
 NAVARRO, FLAVIA CURAYAG and
 LIXBERTO¹ CASTRO,
 Respondents.

Promulgated:

24 JAN 2018

X-----
[Signature]-----X

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision² of the Court of Appeals (CA), Cagayan de Oro City, dated July 31, 2013 in CA-G.R. SP No. 04500. The questioned CA Decision set aside the Joint Decision³ of the Regional Trial Court (RTC), Branch 30, Surigao City, dated August 17, 2011, which affirmed with modification the February 25, 2011 Omnibus Judgment⁴ of the Municipal Trial Court in Cities (MTCC), Branch 1, Surigao City, in five (5) consolidated cases for *accion publiciana* and/or recovery of possession.

¹ "Lexberto" in some parts of the records.
² Penned by Associate Justice Edgardo T. Lloren, with the concurrence of Associate Justices Marie Christine Azcarraga-Jacob and Edward B. Contreras, Annex "A" to Petition, *rollo*, pp. 21-28.
³ Penned by Presiding Judge Evangeline S. Yuipco Bayana; *rollo*, pp. 42-57.
⁴ Penned by Presiding Judge Cesar P. Bordialba; *id.* at 30-41.

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The pertinent factual and procedural antecedents of the case are as follows:

On August 11, 2005, herein petitioners filed five separate (5) Complaints⁵ for *accion publiciana* and/or recovery of possession against herein respondents and a certain Reynaldo Peralta. The suits, which were subsequently consolidated, were filed with the MTCC of Surigao City, which were later raffled to Branch 1 thereof. Petitioners uniformly alleged in the said Complaints that: they are owners of three (3) parcels of land, denominated as Lot Nos. 519, 520 and 1015, which are all located at *Barangay Taft*, Surigao City; they inherited the lots from their predecessor-in-interest, Alfonso Yusingco; they were in possession of the said properties prior to and at the start of the Second World War, but lost possession thereof during the war; after the war, petitioners discovered that the subject properties were occupied by several persons, which prompted petitioners to file separate cases for *accion reivindicatoria* and recovery of possession against these persons; during the pendency of these cases, herein respondents entered different portions of the same properties and occupied them without the knowledge and consent of petitioners; petitioners were forced to tolerate the illegal occupation of respondents as they did not have sufficient resources to protect their property at that time and also because their ownership was still being disputed in the earlier cases filed; subsequently, the cases which they earlier filed were decided in their favor and they were declared the owners of the subject properties; thereafter, petitioners demanded that respondents vacate the said properties, but the latter refused.

In their Answer, respondents raised essentially similar defenses, contending, in essence, that: they have been in possession of the subject properties for more than thirty (30) years; petitioners never actually possessed the said parcels of land and that they never had title over the same; thus, petitioners' claim would be in conflict with and inferior to respondents' claim of possession.

After the issues were joined, trial ensued.

On February 25, 2011, the MTCC, Branch 1, Surigao City issued an Omnibus Judgment in favor of herein petitioners and disposed as follows:

WHEREFORE, premises considered judgment is hereby rendered in favor of the plaintiffs, Heirs of Alfonso Yusingco, represented by their attorney-in-fact Teodoro E. Yusingco, against defendants Flavia Curayag,

⁵ CA *rollo*, pp. 61-80.



Cosca Navarro, Amelita Busilak, Lexberto Castro, Reynaldo Peralta and Adriano Solamo ordering:

1. Defendants Flavia Curayag, Cosca Navarro, Amelita Busilak, Lexberto Castro, Reynaldo Peralta and Adriano Solamo and all those claiming rights under them to vacate the premises of the lots respectively occupied by them and to remove their improvements from the premises and restore possession to the plaintiffs;
2. Defendant Amelita Busilak to pay the plaintiffs a monthly compensation of ₱1,200.00 for the use of the property occupied by her at 2763 P. Reyes cor. Narciso Sts., Surigao City, computed from the time of the filing of the complaint on August 11, 2005 until she vacates the subject property;
3. Defendant Cosca Navarro to pay the plaintiffs a monthly compensation of ₱2,120.00 for the use of the property occupied by her located at 03240 Borromeo St., Surigao City, computed from the time of the filing of the complaint on August 11, 2005 until she vacates the subject property;
4. Defendant Flavia Curayag to pay the plaintiffs a monthly compensation of ₱1,760.00 for the use of the property occupied by her located at 03818, Narciso St., Surigao City, computed from the time of the filing of the complaint on August 11, 2005 until she vacates the subject property;
5. Defendant Lexberto Castro to pay the plaintiffs a monthly compensation of ₱1,500.00 for the use of the property occupied by her located at SLB Pension House, Borromeo St., Surigao City, computed from the time of the filing of the complaint on November 27, 2007 until he vacates the subject property;
6. Defendants Reynaldo Peralta and Adriano Solamo to pay the plaintiffs a monthly compensation of ₱2,000.00 for the use of the property occupied by them located at 04286, Navarro St., Surigao City, computed from the time of the filing of the complaint on November 27, 2007 until they vacate the subject property
7. All the defendants to pay the cost of the suit.

SO ORDERED.⁶

The MTCC held that: in an earlier case for *accion reivindicatoria* (Civil Case No. 1645) decided by the Court of First Instance of Surigao Del Norte on June 8, 1979 and affirmed by the CA in its Decision dated August 30, 1982 (CA-G.R. No. 66508-R), which became final and executory on December 18, 1986, herein petitioners were declared the true and lawful co-owners of the subject properties; on the other hand, evidence showed that respondents were mere intruders on the lots in question; thus, as judicially-declared owners of the said lots, petitioners are entitled to possession thereof as against respondents whose entries into the said properties are illegal.

⁶ Rollo, pp. 40-41.



Herein respondents filed an appeal with the RTC of Surigao City.

On August 17, 2011, the RTC, Branch 30, Surigao City, rendered a Joint Decision, which affirmed, with modification, the Omnibus Judgment of the MTCC. The dispositive portion of the RTC Joint Decision reads, thus:

WHEREFORE, the assailed Omnibus Judgment dated February 25, 2011 of the Municipal Trial Court in Cities, Branch 1, Surigao City is **AFFIRMED WITH MODIFICATION** as to the judgment against defendants Reynaldo Peralta and Adriano Solamo who did not file an appeal therefrom. x x x

SO ORDERED⁷

Herein respondents then filed with the CA a petition for review under Rule 42 of the Rules of Court assailing the abovementioned Joint Decision of the RTC.

On July 31, 2013, the CA promulgated its Decision granting the petition of herein respondents. The CA disposed as follows:

WHEREFORE, the petition is GRANTED. The Joint Decision dated August 17, 2011 of the Regional Trial Court, 10th Judicial Region, Branch 30, Surigao City is SET ASIDE and a new one rendered: (1) SETTING ASIDE the Omnibus Judgment dated February 25, 2011 of the Municipal Trial Court in Cities, Branch 1, Surigao City, in consolidated civil cases for *Accion Publiciana* and/or Recovery of Possession, and (2) DISMISSING the consolidated cases for lack of merit.

SO ORDERED.⁸

The CA ruled that the RTC and CA Decisions used by the MTCC in holding that herein petitioners are owners of the subject properties and are, thus, entitled to legal possession thereof, are based on a previous *accion reivindicatoria*, which is a suit in personam. The CA held that, being an action *in personam*, the judgments in the said case binds only the parties properly impleaded therein. Since respondents were not parties to the said action, the CA concluded that they could not be bound by the judgments declaring petitioners as owners of the disputed properties. Hence, petitioners' present actions to recover possession of the said properties from respondents, on the basis of the said judgments, must fail.



⁷ *Id.* at 57.

⁸ *Id.* at 27-28.

Aggrieved by the CA Decision, herein petitioners are now before this Court via the instant petition for review on *certiorari* contending that the assailed CA Decision is replete with legal infirmities, to wit:

1. When Honorable Court of Appeals held that the prior judgments declaring herein petitioners as the true and lawful co-owners of the property did not bind herein respondents, as they were not parties to the actions, saying that these were an *accion reivindicatoria* and an action for recovery of possession, hence in personam, and as such, they bound only the parties properly impleaded and duly heard or given an opportunity to be heard; even if such principle is inapplicable in the instant case.

2. When Honorable Court of Appeals impliedly ruled that herein respondents would have a better right of possession over the subject matter property over herein petitioners, despite the rulings in the prior judgments showing the contrary.⁹

The petition is meritorious.

The issues raised in the instant petition boil down to the basic question of whether or not the final and executory decisions rendered in a previous *accion reivindicatoria*, finding petitioners to be the lawful owners of the subject properties, are binding upon respondents.

This Court rules in the affirmative.

At the outset, the Court finds it proper to look into the nature of the actions filed by petitioners against respondents. A perusal of the complaints filed by petitioners shows that the actions were captioned as “*Accion Publiciana* and/or Recovery of Possession.” However, the Court agrees with the ruling of the lower courts that the complaints filed were actually *accion reivindicatoria*.

In a number of cases,¹⁰ this Court had occasion to discuss the three (3) kinds of actions available to recover possession of real property, to wit:

x x x (a) *accion interdictal*; (b) *accion publiciana*; and (a) *accion reivindicatoria*

Accion interdictal comprises two distinct causes of action, namely, forcible entry (*detencion*) and unlawful detainer (*desahuico*) [sic]. In forcible entry, one is deprived of physical possession of real property by means of force, intimidation, strategy, threats, or stealth whereas in

⁹ *Id.* at 12-13.

¹⁰ *Spouses Valdez, Jr. v. Court of Appeals*, 523 Phil. 39, 45-46 (2006); *Encarnacion v. Amigo*, 533 Phil. 466, 472 (2006); *Suarez v. Spouses Embo, Jr.*, 729 Phil. 315, 329-330 (2014).



unlawful detainer, one illegally withholds possession after the expiration or termination of his right to hold possession under any contract, express or implied. The two are distinguished from each other in that in forcible entry, the possession of the defendant is illegal from the beginning, and that the issue is which party has prior *de facto* possession while in unlawful detainer, possession of the defendant is originally legal but became illegal due to the expiration or termination of the right to possess.

The jurisdiction of these two actions, which are summary in nature, lies in the proper municipal trial court or metropolitan trial court. Both actions must be brought within one year from the date of actual entry on the land, in case of forcible entry, and from the date of last demand, in case of unlawful detainer. The issue in said cases is the right to physical possession.

Accion publiciana is the plenary action to recover the right of possession which should be brought in the proper regional trial court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title. In other words, if at the time of the filing of the complaint more than one year had elapsed since defendant had turned plaintiff out of possession or defendant's possession had become illegal, the action will be, not one of the forcible entry or illegal detainer, but an *accion publiciana*. On the other hand, *accion reivindicatoria* is an action to recover ownership also brought in the proper regional trial court in an ordinary civil proceeding.

Accion reivindicatoria or *accion de reivindicacion* is, thus, an action whereby the plaintiff alleges ownership over a parcel of land and seeks recovery of its full possession.¹¹ It is a suit to recover possession of a parcel of land as an element of ownership.¹² The judgment in such a case determines the ownership of the property and awards the possession of the property to the lawful owner.¹³ It is different from *accion interdictal* or *accion publiciana* where plaintiff merely alleges proof of a better right to possess without claim of title.¹⁴

On the basis of the above discussions, it is clear that the lower courts did not err in ruling that the suits filed by petitioners are *accion reivindicatoria*, not *accion publiciana*, as petitioners seek to recover possession of the subject lots on the basis of their ownership thereof.

Proceeding to the main issue in the instant petition, there is no dispute that the RTC Decision in Civil Case No. 1645 and the CA Decision in CA-G.R. CV No. 66508-R used by the MTCC in the present case as bases in

¹¹ *Amoroso v. Alegre, Jr.*, 552 Phil. 22, 34 (2007); *Serdoncillo v. Spouses. Benolirao*, 358 Phil. 83, 96 (1998).

¹² *Id.*

¹³ *Amoroso v. Alegre, Jr.*, *supra*, at 35.

¹⁴ *Serdoncillo v. Spouses Benolirao*, *supra* note 11.



holding that herein petitioners are owners of the subject properties and are, thus, entitled to legal possession thereof, are judgments on a previous case for *accion reivindicatoria*, which was filed by petitioners against persons other than herein respondents.

It is settled that a judgment directing a party to deliver possession of a property to another is *in personam*.¹⁵ It is conclusive, not against the whole world, but only "between the parties and their successors in interest by title subsequent to the commencement of the action."¹⁶ An action to recover a parcel of land is a real action but it is an action in personam, for it binds a particular individual only although it concerns the right to a tangible thing.¹⁷ Any judgment therein is binding only upon the parties properly impleaded and duly heard or given an opportunity to be heard.¹⁸ However, this rule admits of the exception that even a non-party may be bound by the judgment in an ejectment suit¹⁹ where he is any of the following: (a) trespasser, squatter or agent of the defendant fraudulently occupying the property to frustrate the judgment; (b) guest or occupant of the premises with the permission of the defendant; (c) transferee *pendente lite*; (d) sublessee; (e) co-lessee; or (f) member of the family, relative or privy of the defendant.²⁰

In the instant case, the Court finds no cogent reason to depart from the findings and conclusions of the MTCC, as affirmed by the RTC, that respondents are mere intruders or trespassers who do not have a right to possess the subject lots. Thus, the Court adopts the discussion of the MTCC on the matter, to wit:

On the other hand, the evidence for the defendants showed that they are mere intruders on the lots in question. They are occupying their respective portions simply as places to stay with intention of acquiring the said properties in the event that they are public lands and not owned by any private person.

It is noted that while the defendants had declared their houses and improvements for tax purposes, not one of them had declared in his name the lot in which his house or improvement is built on. They just waited for the Yusingcos to show proof of their ownership of the lot.

¹⁵ *Spouses Stilgrove v. Sabas*, 538 Phil. 232, 244 (2006).

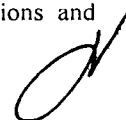
¹⁶ *Id.* at 244-245.

¹⁷ *Id.* at 245.

¹⁸ *Id.*

¹⁹ This Court has explained in *Vencilao v. Camarenta* and in *Sering v. Plaza* that the term action in ejectment includes a suit for forcible entry (*detencion*) or unlawful detainer (*desahucio*). The Court also noted in *Sering* that the term action in ejectment includes also, an *accion publiciana* (recovery of possession) or *accion reivindicatoria* (recovery of ownership). Most recently in *Estreller v. Ysmael*, the Court applied Article 487 of the Civil Code to an *accion publiciana* case; in *Plasabas v. Court of Appeals* the Court categorically stated that Article 487 applies to reivindicatory actions. See discussions and citations in *Marmo, et. al. v. Anacay*, 621 Phil. 212, 222 (2009).

²⁰ *Spouses Stilgrove v. Sabas*, *supra* note 14, at 245.




It was indeed revealing that while professing that the lots are public land, the defendants never bothered to apply under any of the legal modes of acquiring land of the public domain for the portion occupied by them. Obviously, their physical possession of the premises was not under claim of ownership or in the concept of an owner. Hence, the defendants' possession cannot ripen into ownership by prescription as claimed by them. They are intruders, plain and simple, without any right of possession to be protected.

The plaintiff[s] [herein petitioners] prayed that their right of possession of the lots is entitled to protection under the law. In the case at bar, the evidence showed that the defendant's [herein respondents'] entry into and possession of the disputed premises was illegal from the beginning and remain to be so until the present. There is no question, therefore, that as between the plaintiffs [herein petitioners] who had been judicially declared the owners of the land and the defendants [herein respondents] who are mere squatters therein, the former are entitled to such legal protection.²¹

On the basis of the foregoing, the CA erred in ruling that the judgments of the RTC (in Civil Case No. 1645) and the CA (in CA-G.R. CV No. 66508-R) on the suit for *accion reivindicatoria* filed by petitioners against persons other than herein respondents are not binding upon the latter. Respondents, being trespassers on the subject lots are bound by the said judgments, which find petitioners to be entitled to the possession of the subject lots as owners thereof.

WHEREFORE, the instant petition is **GRANTED**. The July 31, 2013 Decision of the Court of Appeals in CA-G.R. SP No. 04500 is **REVERSED** and **SET ASIDE**. The Omnibus Judgment of the Municipal Trial Court in Cities, Branch 1, Surigao City, dated February 25, 2011, is **REINSTATED**.

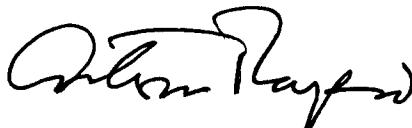
SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

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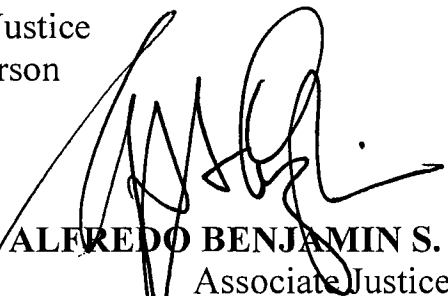
Rollo, pp. 54-55.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

MA. KERR
ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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