



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

MA. LUZ TEVES ESPERAL, G.R. No. 229076  
*Petitioner,*

Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
HERNANDO,  
INTING,  
DELOS SANTOS, and  
BALTAZAR-PADILLA,\* JJ.

MA. LUZ TROMPETA-  
ESPERAL AND LORENZ  
ANNEL BIAOCO,

Promulgated:

*Respondents.*

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DECISION

INTING, J.:

Before the Court is a Petition<sup>1</sup> for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated June 10, 2016 and the Resolution<sup>3</sup> dated January 5, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 142161 which reversed and set aside the Decision<sup>4</sup> dated June 30, 2015 of Branch 257, Regional Trial Court (RTC), Parañaque City in Civil Case No. 15-37.

\* On leave.

<sup>1</sup> *Rollo*, pp. 10-23.

<sup>2</sup> *Id.* at 28-37; penned by Associate Justice Manuel M. Barrios with Associate Justices Franchito N. Diamante and Maria Elisa Sempio Diy, concurring.

<sup>3</sup> *Id.* at 46-48.

<sup>4</sup> *CA rollo*, pp. 23-28; penned by Judge Rolando G. How.

*The Antecedents*

The instant petition stemmed from the forcible entry case filed by Ma. Luz Teves Esperal (petitioner) against Ma. Luz Trompeta-Esperal (Trompeta) and Lorenz Annel Biaoco (Biaoco) (collectively, respondents) which involved a 109-square meter parcel of land located at 2496 F Dynasty Ville I, Bayview Drive, Tambo, Parañaque City covered by Transfer Certificate of Title (TCT) No. 125190<sup>5</sup> (subject property) registered in the name of Pablo Rostata (Pablo) and the petitioner. Both were previously married to each other, but the marriage was declared void because of Pablo's previous marriage to another woman.<sup>6</sup>

Sometime in September 2012, petitioner who was working in the United States, came home to the Philippines for a short vacation. She was surprised that her property, which was vacant when she left for the United States, was now occupied by persons unknown to her. Upon inquiry, the occupants informed her that they were the lessees and paying rentals to Biaoco, nephew of Trompeta. She then told the occupants that she is the owner of the property and that she did not authorize Biaoco to have the property leased to anyone.

When petitioner returned to the property on September 29, 2012, she met Biaoco. The latter confirmed that he managed the property and collected rentals for his aunt, Trompeta. Petitioner told him that she is the owner of the property and not his aunt. Upon hearing this, respondents voluntarily left the premises. Thereafter, petitioner took over the possession of the property and designated her sister, Rosario Ola (Ola) to be the property administrator. She likewise made an arrangement with the lessees to pay the rentals to Ola. Thus, she changed the locks of the gate of the subject property.<sup>7</sup>

For more than two weeks, petitioner's possession of the subject property was peaceful. However, on the third week of October 2012, when petitioner was back in the United States, Ola informed her that their tenants were not allowed to enter the subject property; that respondents entered the premises by destroying the locks using a bolt cutter; and that respondents changed the locks, prohibited the tenants from entering the premises, and posted a rent signage.

Ola immediately reported the incident to the *barangay* on October 23, 2012. Petitioner's counsel then sent a demand letter to respondents

<sup>5</sup> *Rollo*, p. 56-60.

<sup>6</sup> *Id.* at 29.

<sup>7</sup> *CA rollo*, p. 24.

for them to vacate the subject property.<sup>8</sup> Despite the receipt of the demand letter, respondents refused to leave the subject property prompting petitioner to file the Complaint<sup>9</sup> for Ejectment and Damages against respondents before the Metropolitan Trial Court (MeTC), Parañaque City.

For their part, respondents averred that the complaint is without legal basis and should be dismissed outright as petitioner is not the real party-in-interest because she was not the owner of the subject property. They likewise insisted that although petitioner was described in the property's title as the wife of Pablo, their marriage was later nullified due to the existing marriage of Pablo to another woman. Moreover, they asserted that Pablo already executed in their favor, an Affidavit of Acceptance for the Foreclosure of the Mortgage Property<sup>10</sup> dated March 15, 2005 wherein Pablo declared that respondent Trompeta is the new owner of the subject property. Thus, respondents contended that they have the right to enter the property and use it in accordance with their will.<sup>11</sup>

#### *The Ruling of the MeTC*

On October 28, 2014, Branch 77, MeTC, Parañaque City rendered a Decision,<sup>12</sup> the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff Ma. Luz Teves Esperal and against the defendants Ma. Luz Trompeta-Esperal & Lorenz Annel Biaoco and ordering all persons claiming under them to:

1. Vacate the property subject of this case covered by Transfer Certificate of Title No. 125190 and surrender possession thereof to the plaintiff or representative;
2. Order defendants to pay the reasonable amount of Php 5,000.00 per month reckoned from the demand dated October 23, 2012 as actual damages for there is no doubt that defendants benefited in occupying the subject property until the defendants vacate the premises and possession thereof is fully restored to the plaintiff;
3. Pay Plaintiff the Attorney's fees in the amount of P20,000.00; and
4. Pay the costs of suit.

SO ORDERED.<sup>13</sup>

<sup>8</sup> *Id.*

<sup>9</sup> *Rollo*, pp. 49-55.

<sup>10</sup> *CA rollo*, p. 128.

<sup>11</sup> *Id.* 24-25.

<sup>12</sup> *Id.* at 30-35; penned by Presiding Judge Donato H. De Castro.

<sup>13</sup> *Id.* at 35.

Undaunted, respondents appealed to the RTC.

*The Ruling of the RTC*

On June 30, 2015, the RTC dismissed the respondents' appeal. It disposed of the case as follows:

WHEREFORE, the Appeal of the defendants is dismissed on the ground of preponderance of evidence in favour of the plaintiff. Thus, the Decision of the court a quo is affirmed.

IT IS SO ORDERED.<sup>14</sup>

The RTC declared that the issue of ownership, in the case at bench, became significant to determine who among the parties has the right to possess the subject property. It ruled that the court can tackle the issue on ownership of the property for it to resolve the issue of possession. It cautioned, however, that the ruling on the issue of ownership in the ejectment case is not a final resolution of the ownership of the subject property as it is merely tentative and for purposes of resolving the issue on possession only.<sup>15</sup>

Moreover, the RTC found that petitioner is a co-owner of the property since it was acquired during the subsistence of her marriage to Pablo. It pointed out that Pablo cannot sell the property without the petitioner's consent; that when the petitioner's marriage with Pablo was declared void, Pablo can merely sell his inchoate portion of the subject property and not the share of the petitioner; and that the petitioner, as co-owner of the property, can bring an ejectment case against the respondents.<sup>16</sup>

Furthermore, the RTC stressed that the Affidavit of Acceptance for the Foreclosure of the Mortgage Property, allegedly executed by Pablo in favor of Trompeta, is neither a real estate mortgage nor a deed of sale. Thus, the RTC ruled that the affidavit is not proof that Pablo mortgaged the property or transferred ownership over the property to Trompeta.<sup>17</sup>

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<sup>14</sup> *Id.* at 28.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 26-27.

<sup>17</sup> *Id.* at 27.

Respondents then filed a Motion for Reconsideration.<sup>18</sup> The RTC denied it in its Order<sup>19</sup> dated August 19, 2015.

Undeterred, respondents raised the issue to the CA.

### *The Ruling of the CA*

On June 10, 2016, the CA rendered a Decision<sup>20</sup> reversing and setting aside the RTC Decision and disposed of the case as follows:

WHEREFORE, premises considered, the Decision dated 30 June 2015 and Order dated 19 August 2015 of Regional Trial Court, Branch 257, Parañaque City, and concomitantly, the verdict of eviction rendered by the Metropolitan Trial Court, Branch 77, Parañaque City are REVERSED and SET ASIDE and declared of no effect. This is without prejudice to the institution by the parties of the proper action before a court of competent jurisdiction to ventilate and resolve with conclusiveness their contrasting claims of ownership over the subject property.

SO ORDERED.<sup>21</sup>

Aggrieved, petitioner comes before the Court raising the sole ground, to wit:

20. The Court of Appeals erred in holding that an ejectment case is not proper due to the contrasting claims of ownership by both petitioner Ma. Luz Teves Esperal and respondent Ma. Luz Trompeta-Esperal.<sup>22</sup>

Petitioner argues that basically, the RTC can make a ruling on the issue of ownership if it is necessary to determine the rightful possessor between two claimants. Moreover, she insists that she was in peaceful possession of the subject property before respondents forcibly occupied it; that even if the right to possess was based on the contending claims of ownership, she has the right to possess it by virtue of the fact that her name as a co-owner appears in the TCT; and that the subject property was acquired during the existence of her marriage to Pablo. Finally, the petitioner contends that Trompeta's claim of ownership was based on an alleged loan, but no loan document was ever presented.

<sup>18</sup> *Id.* at 176-188.

<sup>19</sup> *Id.* at 29.

<sup>20</sup> *Rollo*, pp. 28-37.

<sup>21</sup> *Id.* at 36-37.

<sup>22</sup> *Id.* at 15.

In their Comment,<sup>23</sup> respondents counter: (1) that the instant petition should be dismissed outright for being filed out of time, and that the Motion for Extension to File Petition was not served upon respondent; (2) that the CA was correct in ruling that the issue of ownership cannot be determined in the case at bench; and (3) that there was insufficient basis for the RTC to conclude that the petitioner is a co-owner of the property.

### *Our Ruling*

The Court grants the petition.

At the outset, the Court reiterates that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, its jurisdiction is generally limited to reviewing errors of law. Section 1, Rule 45 of the Rules of Court states that the petition filed shall raise only questions of law which must be distinctly set forth. The Court explained the difference between a question of fact and a question of law in this wise:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.<sup>24</sup>

Here, petitioner argues that the CA erred in holding that the instant ejectment suit is not proper due to the contrasting claims of ownership by both parties. In other words, petitioner is raising the issue of whether the court can resolve an ejectment suit even if both parties claim ownership of the subject property. Clearly, the issue raised is a question of law.

Still, the Court will have to pass upon the factual findings in the case considering the conflicting or contradictory<sup>25</sup> decisions of the CA and RTC; thus, the Court is constrained to make its own factual findings in order to resolve the issue presented before it.

<sup>23</sup> *Id.* at 192-202.

<sup>24</sup> *Clemente v. Court of Appeals, et al.*, 771 Phil. 113, 121 (2015), citing *Lorzano v. Tabayag, Jr.*, 681 Phil. 39, 48-49 (2012).

<sup>25</sup> *Bank of the Philippine Islands v. Mendoza, et al.*, 807 Phil. 640, 647 (2017), citing *Miro v. Vda. de Erederos*, 721 Phil. 772, 786 (2013).

Well-settled is the rule that the sole issue for resolution in ejectment case relates to the physical or material possession of the property involved, independent of the claim of ownership by any of the parties.<sup>26</sup> Even if the question of ownership is raised in the pleadings, as in the case at bench, the courts may pass upon such issue but only to determine the issue of possession especially if the former is inseparably linked with the latter.<sup>27</sup> In any case, the adjudication of ownership, being merely provisional, does not bar or prejudice an action between the parties involving title to the subject property.<sup>28</sup>

In *Co v. Militar*,<sup>29</sup> the Court ruled:

In forcible entry and unlawful detainer cases, even if the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the lower courts and *the Court of Appeals, nonetheless, have the undoubted competence to provisionally resolve the issue of ownership for the sole purpose of determining the issue of possession.*

Such decision, however, does not bind the title or affect the ownership of the land nor is conclusive of the facts therein found in a case between the same parties upon a different cause of action involving possession.<sup>30</sup> (Italics supplied.)

Moreover, the Court emphasized in the case of *Mangaser v. Ugay*<sup>31</sup> that the issue of ownership shall be resolved in deciding the issue of possession only if the question of possession is *intertwined* with the issue of ownership, thus:

Before the Court continues any further, it must be determined first whether the issue of ownership is material and relevant in resolving the issue of possession. *The Rules of Court in fact expressly allow this: Section 16, Rule 70 of the Rules of Court provides that the issue of ownership shall be resolved in deciding the issue of possession if the question of possession is intertwined with the issue of ownership. But this provision is only an exception and is allowed only in this limited instance — to determine the issue of possession and only if the question of possession cannot be resolved without deciding the issue of ownership.*<sup>32</sup> (Italics supplied.)

Another case wherein both parties raised the issue of ownership as their basis of their respective right to possess the property in question is

<sup>26</sup> See *Estrellado v. Presiding Judge, MTCC, 11<sup>th</sup> Judicial Region, Br. 3, Davao City, et al.*, 820 Phil. 556, 571 (2017); *Dizon v. CA*, 332 Phil. 429, 432 (1996).

<sup>27</sup> *Id.* Citations omitted.

<sup>28</sup> *Id.*

<sup>29</sup> 466 Phil. 217 (2004).

<sup>30</sup> *Id.* at 224. Citations omitted.

<sup>31</sup> 749 Phil. 372 (2014).

<sup>32</sup> *Id.* at 384, citing *Nenita Quality Foods Corp. v. Galubo, et al.*, 702 Phil. 506, 520 (2013).

*Sps. Dela Cruz v. Sps. Capco*,<sup>33</sup> wherein the Court reiterated the rule that where both parties to an ejectment case raise the issue of ownership, the courts may pass upon that issue to determine who between the parties has the better right to possess the property, thus:

“The only issue in an ejectment case is the physical possession of real property possession *de facto* and not possession *de jure*.” But “[w]here the parties to an ejectment case raise the issue of ownership, the courts may pass upon that issue to determine who between the parties has the better right to possess the property.” Here, both parties anchor their right to possess based on ownership, *i.e.*, the spouses Dela Cruz by their own ownership while the spouses Capco by the ownership of Rufino as one of the heirs of the alleged true owner of the property. Thus, the MeTC and the RTC correctly passed upon the issue of ownership in this case to determine the issue of possession. However, it must be emphasized that “[t]he adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.”<sup>34</sup>

Based on the aforementioned jurisprudence, the Court finds that the CA erred in holding that an ejectment case is not the proper proceeding where contrasting claims of ownership by both parties exist. At the risk of repetition, the only issue in forcible entry cases is the physical or material possession of real property—prior physical possession and not title.<sup>35</sup>

For a forcible entry suit to prosper, the plaintiffs must allege and prove: (a) that they have prior physical possession of the property; (b) that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and (c) that the action was filed within one year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.<sup>36</sup>

Records reveal that petitioner was able to satisfactorily prove by preponderance of evidence the existence of all the elements of forcible entry. While it may be true that respondents occupied the property before 2012, it was without the knowledge of petitioner and respondents voluntarily left the premises after the latter learned of petitioner's ownership. More importantly, petitioner was already in prior peaceful occupation of the subject property when respondents forcibly entered it by using a bolt cutter, evicted the tenants therein, changed the padlocks,

<sup>33</sup> 729 Phil. 624 (2014).

<sup>34</sup> *Id.* at 637. Citations omitted.

<sup>35</sup> *German Management and Services, Inc. v. Court of Appeals*, G.R. No. 229955, September 14, 198 177 SCRA 495, 9; *Ganadin v. Ramos*, 99 SCRA 613, September 11, 1980; *Baptista v. Carillo*, 72 SCRA 214, July 30, 1976 as cited in *Heirs of Laurora v. Sterling Technopark III*, 449 Phil. 181-188 (2003).

<sup>36</sup> *Mangaser v. Ugay*, *supra* note 31 at 381, citing *De La Cruz v. Court of Appeals*, 539 Phil. 158, 170 (2006).

and placed a rent signage in front of the property. These were the acts of respondents that prompted petitioner to file a forcible entry case.

Respondents, on the other hand, countered that their entitlement to possession over the subject property is based on their ownership rights as evidenced by an Affidavit of Acceptance for the Foreclosure of the Mortgage of Real Property dated March 15, 2005 executed by Pablo. The Court stresses that the issue of ownership in ejectment cases is to be resolved only when it is intimately intertwined with the issue of possession to such an extent that the question of who had prior possession cannot be determined without ruling on the question of who the owner of the land is.<sup>37</sup> Contrary to the conclusions of the RTC, the Court deems it inappropriate for the ejectment court to dwell on the issue of ownership considering that respondents' claim of ownership could not establish prior possession at the time when the subject property was forcibly taken from petitioner.

Regardless of the actual condition of the title to the property, a person in possession cannot be ejected by force, violence or terror, not even by the owners.<sup>38</sup> Assuming *arguendo* that herein respondents are the real owners of the subject property, they had no right to take the law into their own hands and summarily or forcibly eject petitioner's tenants from the subject property. Their employment of illegal means to eject petitioner by force in entering the subject property by destroying the locks using bolt cutter, replacing the locks, and prohibiting the tenants to enter therein made them liable for forcible entry since prior possession was established by petitioner.

All told, the Court agrees with the MeTC's conclusion as affirmed by the RTC that petitioner is better entitled to the material possession of the subject property and that she cannot be forcibly evicted therefrom without proper recourse to the courts.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated June 10, 2016 and the Resolution dated January 5, 2017 of the Court of Appeals in CA-G.R. SP No. 142161 are **REVERSED** and **SET ASIDE**. The Decision dated October 28, 2014 of Branch 77, Metropolitan Trial Court, Parañaque City in Civil Case No. 2013-21 is hereby **REINSTATED**.

**SO ORDERED.**

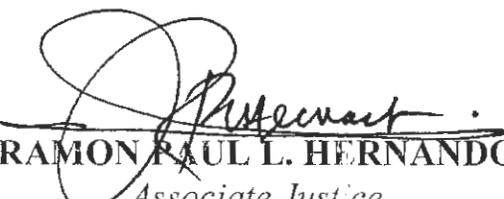
<sup>37</sup> *Heirs of Laurora v. Sterling Technopark III*, 449 Phil. 181 (2003).

<sup>38</sup> *Muñoz v. Court of Appeals*, 214 SCRA 216, September 23, 1992; *Joven v. Court of Appeals*, 212 SCRA 700, August 20, 1992; *German Management and Services, Inc. v. Court of Appeals*, 177 SCRA 495, September 14, 1989; *Supia and Batioco v. Quintero and Ayala*, 59 Phil. 312, (1933) as cited in *Heirs of Laurora v. Sterling Technopark III*, 449 Phil. 181 (2003).

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

(On leave)  
**PRISCILLA BALTAZAR PADILLA**  
*Associate Justice*

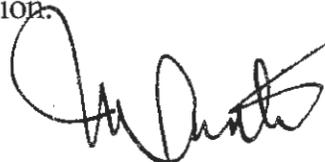
**ATTESTATION**

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.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior 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.



**DIOSDADO M. PERALTA**  
*Chief Justice*

