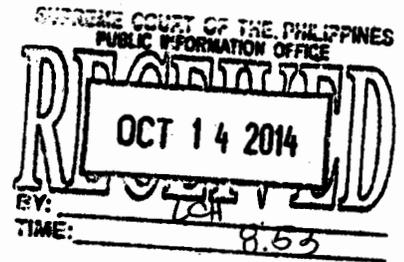




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated September 15, 2014, which reads as follows:

“G.R. No. 200244 (*Sergio R. Mendoza v. Municipality of Pulilan, Bulacan, herein represented by Municipal Mayor Hon. Vicente B. Esguerra, Sr.*) – Petitioner Sergio Mendoza filed a complaint for ejectment against respondent Municipality of Pulilan, Bulacan (*the Municipality*) before the Municipal Trial Court (*MTC*). He alleged that he is the registered owner of the subject parcel of land covered by TCT No. T-245450, situated in Bo. Cutcot in the same municipality, having inherited the property from his mother who died in 1977. He claimed that Pulilan Waterworks has been using said property by mere tolerance. However, when he made a formal demand on July 4, 2007, the Municipality failed and refused to vacate the subject property.

On August 18, 2009, the MTC rendered a decision ordering the Municipality to vacate the premises and surrender the same to Mendoza. It further ordered the Municipality to pay the amount of ₱5,000.00 as monthly rental from August 21, 2007 until the surrender of the property. The Municipality appealed, principally on the issue of jurisdiction.

On December 14, 2009, Regional Trial Court (*RTC*) denied the appeal and affirmed the MTC Decision. It ruled that the MTC has jurisdiction as the only issue in this case is possession *de facto* or physical/material possession and not possession *de jure*, and as such, the issue of ownership may be passed upon only to determine the question of possession. The Municipality thus brought the case to the Court of Appeals (*CA*), arguing that the MTC has no jurisdiction over the case as it involves a determination as to who is rightfully entitled to legal possession. It is not an ejectment case, particularly that of an unlawful detainer.

On June 29, 2011, the CA granted the Municipality’s petition, reversed and set aside the assailed judgment, and dismissed Mendoza’s complaint for ejectment. It held that Mendoza should have filed an *accion publiciana* before the RTC and not an action for unlawful detainer before the MTC.

Hence, Mendoza filed a Petition for Review before the Court, assailing the CA decision. He maintains that his complaint avers facts constitutive of unlawful detainer. The complaint alleges that Mendoza is the owner of the property being occupied by Pulilan Waterworks by his mere tolerance which was terminated through a demand to vacate on July 10, 2007; that despite such demand, Pulilan Waterworks refused to vacate the property; and that for said reason, Mendoza filed a complaint for unlawful detainer on August 21, 2007.

The petition has no merit.

Accordingly, what determines the proper action to be filed for the recovery of the possession of the property is the length of time of dispossession. If the dispossession has not lasted for more than a year, an ejectment proceeding is proper and the MTC acquires jurisdiction. On the other hand, if the dispossession lasted for more than a year, the proper action to be filed is an *accion publiciana* which should be brought to the proper RTC.¹ Here, the CA correctly held that the proper action should have been *accion publiciana* and not an action for ejectment since the dispossession has lasted for more than one year.

Also, to give the court jurisdiction to effect the ejectment of an occupant on the land, it is necessary that the complaint should embody such a statement of facts as it brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. 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 this case, the remedy should either be an *accion publiciana* or an *accion reivindicatoria* in the proper RTC.² It is an essential requirement in unlawful detainer cases that plaintiff's supposed act of tolerance must be present right from the start of a possession that is later sought to be recovered.³ Here, there was failure on Mendoza's part to sufficiently establish that Pulilan Waterworks' occupancy of the subject lot was by mere tolerance or as to whether such tolerance was indeed present at the start of its possession and occupation.

WHEREFORE, the petition is **DENIED** for failure of petitioner to show any reversible error in the assailed CA decision.

¹ *Encarnacion v. Amigo*, 533 Phil. 466, 473 (2006).

² *Sarmiento v. CA*, 320 Phil. 146, 156 (1995).

³ *Jose v. Alfuerio*, G.R. No. 169380, November 26, 2012, 686 SCRA 323, 339.

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court
10/7/14

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 19, Malolos City
3000 Bulacan
(Civil Case No. 662-M-2009)

The Presiding Judge
MUNICIPAL TRIAL COURT
Pulilan, 3005 Bulacan
(Civil Case No. 993-07)

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