



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**SPOUSES ROLANDO/ROLLY
and FE TOBIAS,**

Petitioners,

- versus -

**MICHAEL GONZALES and
MARIO SOLOMON GONZALES,
as represented by their Attorneys-
in-Fact, JEMIMA G. ATIGA and/or
MARIO M. ATIGA,**

Respondents.

G.R. No. 232176

Present:

LEONEN, J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J., JJ.

Promulgated:

February 17, 2021

Microbat

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DECISION

DELOS SANTOS, J.:

Assailed before the Court, through a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court are the Decision² dated August 31, 2016 and the Resolution³ dated May 15, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 104140, which set aside the Order⁴ dated November 10, 2014 remanding the case to the Regional Trial Court (RTC) of Tagudin, Ilocos Sur, Branch 25, for further proceedings.

¹ *Rollo*, pp. 12-27.

² Penned by Associate Justice Mario V. Lopez (now a Member of the Court), with Associate Justices Rosmari D. Carandang (now a Member of the Court) and Myra V. Garcia-Fernandez, concurring; *id.* at 34-41.

³ *Id.* at 43-46.

⁴ Rendered by Judge Mario Anacleto M. Bafiez; *id.* at 104-108.

The Antecedents

On June 26, 2014, Michael Gonzales and Mario Solomon Gonzales (respondents) filed a Complaint for Recovery of Possession and Damages under Civil Case No. 495⁵ (unlawful detainer) against the spouses Rolando⁶ and Fe Tobias (petitioners) before the RTC alleging that they are the owners of a 1,057-square meter parcel of land located in *Barangay Del Pilar*, Tagudin, Ilocos Sur covered by Transfer Certificate of Title (TCT) No. 024-2013000860. The said parcel of land, on which a house was built, was in possession of petitioners who also reside in the said property. Consequently, respondents sent a notice to vacate, but they were unsuccessful as petitioners refused to vacate the property. As a result, the Complaint⁷ for recovery of possession based on ownership under Civil Case No. 01546-T was filed by respondents.⁸

Subsequently, petitioners filed a Motion to Dismiss based on *litis pendentia* and forum shopping, citing that respondents had previously filed a complaint for unlawful detainer against them involving the same property before the Municipal Circuit Trial Court of Tagudin-Suyo, Ilocos Sur. Petitioners averred that the complaint for unlawful detainer and recovery of possession based on ownership have the same causes of action since both were instituted by respondents to gain possession of the house and lot. Additionally, petitioners contended that the Verification and Certification Against Forum Shopping submitted by respondents is defective because it was only signed by their attorneys-in-fact. Moreover, the Special Power of Attorney (SPA) authorized the attorneys-in-fact to file a complaint regarding a property covered by TCT No. T-47672 in the name of Elias Villanueva and not TCT No. 024-2013000860 in the name of respondents. Therefore, the Complaint for Recovery of Possession based on ownership, according to petitioners, is no more than a mere scrap of paper.⁹

In their opposition to the Motion to Dismiss, respondents contended that there is no *litis pendentia* because the causes of action are different. The cause of action in the unlawful detainer case is only possession *de facto* while the cause of action for the recovery of possession based on ownership is possession *de jure*. Also, respondents averred that the signatures of their attorneys-in-fact did not violate the requirement that the Verification and Certification Against Forum Shopping must be personally signed by the parties since it was accompanied by an SPA. To explain the difference in TCT No. T-47672 referred to in the SPA to TCT No. 024-2013000860 which is the subject property, respondents reasoned out that this was because the

⁵ Id. at 13.

⁶ Also referred to as "Rolly" in some parts of the *rollo*.

⁷ *Rollo*, pp. 58-61.

⁸ Id. at 34.

⁹ Id. at 35.

SPA was executed prior to the issuance of TCT No. 024-2013000860 on July 25, 2013. Nevertheless, the SPA subsists since it refers to the same property despite the changes in the certificates of title.¹⁰

Ruling of the RTC

On November 10, 2014, the RTC issued an Order¹¹ dismissing respondents' complaint for recovery of possession based on ownership, ratiocinating, thus:

It is thus beyond cavil that inasmuch as plaintiffs in this case merely reiterated the basis of their ownership which was already passed upon in previous proceedings, as the foundation of their present case against the same defendants, the elements of [*litis pendentia*] and forum shopping are present. If this case will be allowed to prosper, the courts will be trying the same issues all over again and conflicting decisions are a certainty. This is anathema to the proper administration of justice as capsulized in the two latin maxims: “[*republicae ut sit litium*]” (it is to the interest of the State that there should [be] and end to litigation) and “[*nemo debet bis vexari et eadem causa*]” (no person should be vexed twice for the same cause).

WHEREFORE, premises considered[,] this case is ordered DISMISSED for lack of merit as it would constitute [forum shopping] and violates the rule against [*litis pendentia*].

SO ORDERED.¹²

Undaunted, respondents filed an appeal to the CA raising the issue of whether there was *litis pendentia* between the unlawful detainer case and the complaint for recovery of possession based on ownership and whether respondents are guilty of forum shopping, among others.¹³

Ruling of the CA

In its August 31, 2016 Decision,¹⁴ the CA granted the appeal and set aside the November 10, 2014 Order of the RTC. The *fallo* of the Decision of the appellate court reads:

ACCORDINGLY, the appeal is GRANTED. The November 10, 2014 Order is SET ASIDE and the case is REMANDED to the Regional Trial Court of Tagudin, Ilocos Sur, Branch 25, for further proceedings with dispatch.

¹⁰ Id. at 35-36.

¹¹ Supra note 4.

¹² *Rollo*, pp. 107-108.

¹³ Id. at 37.

¹⁴ Supra note 2.

SO ORDERED.¹⁵

Despite petitioners' Motion for Reconsideration, the CA affirmed its August 31, 2016 Decision *via* the May 15, 2017 Resolution.¹⁶

Hence, this Petition.

A Comment¹⁷ to the petition dated October 25, 2017 was filed by respondents and a Reply¹⁸ to the Comment dated December 1, 2017, was filed by petitioners subsequently.

The Issues

Petitioners anchor their prayer for the reversal of the August 31, 2016 Decision and the May 15, 2017 Resolution of the CA based on the following issues:

- A. Whether or not the Honorable Court *a quo* gravely erred under [the] law when it held that the causes of action in Civil Case No. 495 (unlawful detainer) and Civil Case No. 01546-T are different.
- B. Whether or not the Honorable Court *a quo* gravely erred under [the] law when it held that there is no forum shopping.¹⁹

The Court's Ruling

After a careful perusal of the arguments presented and the evidence submitted, the Court finds no merit in the petition.

Petitioners argue that respondents violated the rule against forum shopping when Civil Case No. 01546-T was filed before Civil Case No. 495 became final and executory, both cases being founded on the same facts, cause of action, and relief sought.

Specifically, petitioners contend that there is identity in the causes of action in Civil Case No. 495 and Civil Case No. 01546-T because both involve the issue of possession where respondents, in both cases, anchor their right to possess from their alleged ownership of the property such that

¹⁵ *Rollo*, p. 41.

¹⁶ *Supra* note 3.

¹⁷ *Rollo*, pp. 183-191.

¹⁸ *Id.* at 199-204.

¹⁹ *Id.* at 16-17.

the evidence for Civil Case No. 495 for the unlawful detainer is the same evidence that will be utilized for Civil Case No. 01546-T, a reivindicatory action.

It is a fundamental principle of civil law that the owner of real property is entitled to the possession thereof as an attribute of his or her ownership. Verily, the holder of a Torrens Title is the rightful owner of the property thereby covered, and is entitled to its possession.²⁰ This notwithstanding, “the owner cannot simply wrest possession thereof from whoever is in actual occupation of the property.”²¹ Rather, to recover possession, the owner must first resort to the proper judicial remedy, and thereafter, satisfy all the conditions necessary for such action to prosper.²²

Accordingly, the owner may decide among three kinds of actions to recover possession of real property — an *accion interdicial*, *accion publiciana* or an *accion reivindicatoria*, thus:

Accion interdicial comprises two distinct causes of action, namely, forcible entry (*detentacion*) 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 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.²³

²⁰ *Quijano v. Atty. Amante*, 745 Phil. 40, 51 (2014).

²¹ *Suarez v. Spouses Emboy*, 729 Phil. 315, 329 (2014).

²² *Id.*

²³ *Heirs of Yusingco v. Busilak*, 824 Phil. 454, 460-461 (2018).

In an ejectment suit (*accion interdical*), the sole issue is the right of physical or material possession over the subject real property independent of any claim of ownership by the parties involved. Ownership over the property is immaterial and is only passed upon *provisionally* for the limited purpose of determining which party has the better right to possession.²⁴

On the other hand, *accion reivindicatoria* or *accion de reivindicacion* is an action whereby plaintiff claims ownership over a parcel of land and seeks recovery of its full possession. It is a suit to recover possession of a parcel of land as an element of ownership.²⁵ In *Amoroso v. Alegre, Jr.*,²⁶ the Court held that an *accion reivindicatoria* is an action instituted to recover possession of a parcel of land as an element of ownership. “It is an action whereby the plaintiff alleges ownership over a parcel of land and seeks recovery of its full possession. The judgment in such a case determines the ownership of the property and awards the possession of the property to the lawful owner.”²⁷

Moreover, the evidentiary requirement for unlawful detainer and *accion reivindicatoria* is distinct from each other. In unlawful detainer, it is required that the aggrieved party allege lawful possession that turned to be unlawful by the party withholding possession under any contract, express or implied.²⁸ However, in an *accion reivindicatoria*, no such evidence is required since it is an action based on ownership over a parcel of land, seeking recovery of its full possession.²⁹ Simply put, evidence of prior physical possession and of the subsequent unlawfulness of possession is irrelevant.

On the basis of the foregoing, it is unmistakable that the causes of action in Civil Case No. 495 and Civil Case No. 01546-T are different. While the parties are the same, the sole issue in Civil Case No. 495 is the right of physical or material possession over the subject real property independent of any claim of ownership by the parties involved. Contrastingly, the issue to be resolved in Civil Case No. 01546-T is the ownership of the property claimed.

Anent the issue of whether or not there is forum shopping, forum shopping is defined as the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. It exists where the elements of *litis pendentia* are present or where a final judgment in one case will

²⁴ *Apostolic Vicar of Tabuk, Inc. v. Spouses Sison*, 779 Phil. 462, 470 (2016).

²⁵ *Pillos v. Domingo*, G.R. No. 251090, June 10, 2020 (Minute Resolution).

²⁶ 552 Phil. 22 (2007).

²⁷ *Id.* at 35.

²⁸ *Rivera-Avante v. Rivera*, G.R. No. 224137, April 3, 2019.

²⁹ *Heirs of Yusingco v. Busilak*, supra note 23, at 461.

amount to *res judicata* in another.³⁰

For *litis pendentia* to be a ground for the dismissal of an action, the following requisites must concur: (a) identity of parties, or at least such parties who represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.³¹

Here, the elements of forum shopping are not present. It must be recalled that respondents, in the beginning, filed an unlawful detainer suit. Afterwards, respondents filed an action to recover possession based on ownership or *accion reivindicatoria*.

While it is true that the parties and the subject matter in both cases are the same, the causes of action and the reliefs prayed for are different from each other. In the unlawful detainer case under Civil Case No. 495, the main issue to be resolved by the Court is who has the better right of possession over the property regardless of the aspect of ownership of the property. On the other hand, it is in the action to recover possession based on ownership or *accion reivindicatoria* that the matter of ownership will be threshed out.

Indeed, *accion reivindicatoria* is an action for the recovery of ownership which includes the recovery of possession.³² The rationale of the rule regarding the difference of unlawful detainer to *accion reivindicatoria* is that the former involves only the issue of material possession or possession *de facto*, while the latter involves the question of ownership. There may be identity of parties and subject matter, but not of the cause of action or the relief prayed for.³³

Consequently, it is obvious that *litis pendentia* is not present in the case at bar because the second and third requisites are wanting.

WHEREFORE, premises considered, the Petition is **DENIED**. Accordingly, the Decision dated August 31, 2016 and the Resolution dated May 15, 2017 of the Court of Appeals in CA-G.R. CV No. 104140 are hereby **AFFIRMED** *in toto*.

³⁰ See *Heirs of Marcelo Sotto v. Palicte*, 726 Phil. 651, 653-654 (2014).

³¹ *Bradford United Church of Christ, Inc. v. Ando*, 785 Phil. 769, 780 (2016).

³² See *De Leon v. Court of Appeals*, 315 Phil. 140, 151 (1995).

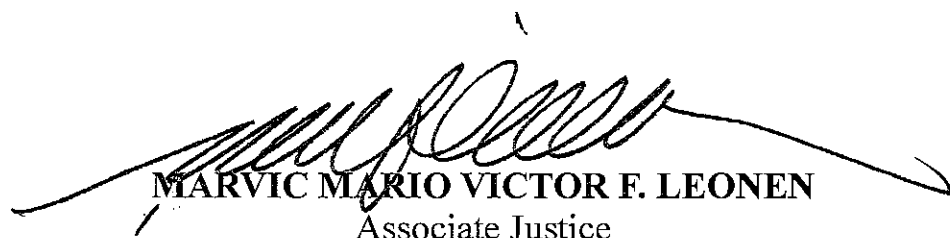
³³ *Soco v. Court of Appeals*, 331 Phil. 753, 762 (1996).

SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice



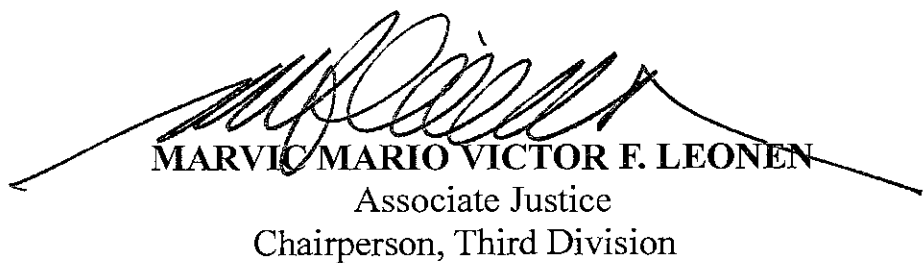
HENRI JEAN PAUL B. INTING
Associate Justice



JHOSEP Y. LOPEZ
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.



MARVIC MARIO VICTOR F. LEONEN
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.



DIOSDADO M. PERALTA
Chief Justice