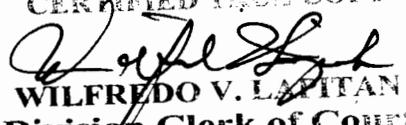




Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
  
 WILFREDO V. LAPID  
 Division Clerk of Court  
 Third Division  
 APR 07 2016

**THIRD DIVISION**

**MILAGROS DIAZ, EDUARDO  
 Q. CATA CUTAN, DANTE Q.  
 CATA CUTAN, represented by  
 their common Attorney-in-fact,  
 FERNANDO Q. CATA CUTAN,**  
 Petitioners,

**G.R. No. 203075**

**Present:**

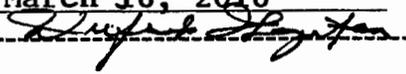
VELASCO, JR., J., *Chairperson*,  
 PERALTA,  
 PEREZ,  
 REYES, and  
 JARDELEZA, JJ.

- versus -

**SPOUSES GAUDENCIO  
 PUNZALAN and TERESITA  
 PUNZALAN,**  
 Respondents.

**Promulgated:**

March 16, 2016

X----------X

**DECISION**

**PERALTA, J.:**

For the Court's Resolution is a Petition for Review under Rule 45 of the Rules of Court which petitioners Milagros Diaz, Eduardo Q. Catacutan, Dante Q. Catacutan, *et al.* filed, assailing the Decision<sup>1</sup> of the Court of Appeals (CA), dated February 17, 2012, and its Resolution<sup>2</sup> dated July 25, 2012 in CA-G.R. SP No. 112959. The CA reversed the Decision<sup>3</sup> of the Regional Trial Court (RTC) of San Fernando, Pampanga, Branch 43, in Civil Case No. 13692, which affirmed the June 22, 2009 Municipal Circuit Trial Court (MCTC) Decision.<sup>4</sup>

<sup>1</sup> Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba; concurring; *rollo*, pp. 25-39.

<sup>2</sup> *Id.* at 41-42.

<sup>3</sup> Penned by Judge Carmelita S. Gutierrez-Fruelda; *id.* at 75-76.

<sup>4</sup> Penned by Judge Lysander R. Montemayor; *id.* at 64-74.



The factual and procedural antecedents are as follows:

Petitioners alleged that their mother, Rufina Vda. de Catacutan, who died on November 17, 2005, had acquired a parcel of land in Mapanique, Candaba, Pampanga, consisting of 3,272 square meters, covered by Transfer Certificate of Title No. 3169. They contend that respondents spouses Gaudencio and Teresita Punzalan (*Spouses Punzalan*) constructed their house on a portion of said lot without their consent and knowledge. But petitioners allowed them to stay, thinking that they would vacate once their need for the property arises. However, when they made a demand, the Spouses Punzalan refused to vacate. Thus, on April 9, 2008, petitioners wrote the spouses a formal demand letter to vacate. Still, they refused to leave the property.

On August 22, 2008, petitioners filed a Complaint for unlawful detainer with the MCTC of Sta. Ana-Candaba, Pampanga. The MCTC then rendered a Decision on June 22, 2009, with the following dispositive portion:

IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered in favor of the plaintiffs and against the defendants ordering the latter, their privies and all persons claiming rights, interests or possession over lot No. 8 of the subdivision plan PSD-020070 (OLT), being a portion of PSU-103330 situated in the Barrio (Mapanique) Barangca, Municipality of Candaba, Pampanga, covered by Transfer Certificate of Title No. 3169 of the Registry of Deeds of Pampanga in the name of Rufina Vda. de Catacutan, to vacate and surrender its peaceful possession to the plaintiffs; to pay Php1,000.00 per month from April 09, 2008, the date of Demand to Vacate, until defendants finally vacate the premises; to pay Php20,000.00 by way of attorney's fees to the plaintiffs and to pay the costs of suit in the amount of Php2,735.00 duly covered by Official Receipts.

SO ORDERED.<sup>5</sup>

The Spouses Punzalan, thus, brought the case before the San Fernando RTC, which ruled, on November 25, 2009, in this wise:

WHEREFORE, finding no reversible error in the assailed Decision, the court hereby AFFIRMS it *in toto*.

Costs against the defendants-appellants.

Furnish all concerned parties with copies of this Decision.

SO ORDERED.<sup>6</sup>

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<sup>5</sup> *Rollo*, p. 74.

<sup>6</sup> *Id.* at 76.

Aggrieved, the Spouses Punzalan elevated the case to the CA. On February 17, 2012, the CA reversed the RTC, thus:

**WHEREFORE**, in the light of the foregoing, the instant petition is **GRANTED**: The assailed *decision* of the Regional Trial Court of San Fernando City, Pampanga, Branch 43 is **REVERSED** and **SET ASIDE**. The *complaint* in Civil Case No. 08-0407 of the Municipal Circuit Trial Court of Sta. Ana-Candaba, Pampanga is **DISMISSED** for lack of jurisdiction.

**SO ORDERED.**<sup>7</sup>

Hence, petitioners filed a Motion for Reconsideration, but the same was denied. Thus, the present petition.

Petitioners insist that their complaint states a cause of action for unlawful detainer and thus, the MCTC duly acquired jurisdiction.

The petition lacks merit.

Well settled is the rule that jurisdiction of the court in ejectment cases is determined by the allegations of the complaint and the character of the relief sought.<sup>8</sup> The complaint should embody such statement of facts as to bring the party clearly within the class of cases under Section 1, Rule 70 of the 1997 Rules of Civil Procedure, as amended. Said provision states:

**SECTION 1.** *Who may institute proceedings, and when.* – Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

Under the aforequoted rule, there are two (2) entirely distinct and different causes of action, to wit: (1) a case for forcible entry, which is an action to recover possession of a property from the defendant whose occupation thereof is illegal from the beginning as he acquired possession by force, intimidation, threat, strategy or stealth; and (2) a case for unlawful detainer, which is an action for recovery of possession from the defendant whose possession of the property was lawful at the inception by virtue of a contract with the plaintiff, be it express or implied, but subsequently became

<sup>7</sup> *Id.* at 38 (Emphasis in the original)

<sup>8</sup> *Cajayon v. Spouses Batuyong*, 517 Phil. 648, 656 (2006).



illegal when he continued his possession despite the termination of his right or authority.<sup>9</sup>

Here, petitioners claim that their cause of action is one for unlawful detainer and not for forcible entry. The Court disagrees.

A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following: (1) the defendant's initial possession of the property was lawful, either by contract with or by tolerance of the plaintiff; (2) eventually, such possession became illegal upon the plaintiff's notice to the defendant of the termination of the latter's right of possession; (3) thereafter, the defendant remained in possession and deprived the plaintiff of the enjoyment of the property; and (4) the plaintiff instituted the complaint for ejectment within one (1) year from the last demand to vacate the property.<sup>10</sup>

On the other hand, in an action for forcible entry, the following requisites are essential for the MTC to acquire jurisdiction over the case.: (1) the plaintiff must allege prior physical possession of the property; (2) the plaintiff was deprived of possession by force, intimidation, threat, strategy or stealth; and (3) the action must be filed within one (1) year from the date of actual entry on the land, except that when the entry is through stealth, the one (1)-year period is counted from the time the plaintiff-owner or legal possessor learned of the deprivation of the physical possession of the property. It is not necessary, however, for the complaint to expressly use the exact language of the law. For as long as it is shown that the dispossession took place under said conditions, it is considered as sufficient compliance with the requirements.<sup>11</sup>

Contrary to petitioners' contention that none of the means to effectuate forcible entry was alleged in the complaint, the Court finds that the allegations actually make up a case of forcible entry. They claimed in their Complaint<sup>12</sup> that the Spouses Punzalan constructed their dwelling house on a portion of petitioners' lot, without the latter's prior consent and knowledge. This clearly falls under stealth, which is defined as any secret, sly or clandestine act to avoid discovery and to gain entrance into, or to remain within residence of another without permission.<sup>13</sup> Here, the evidence clearly reveal that the spouses' possession was illegal at the inception and not merely tolerated, considering that they started to occupy the subject lot and thereafter built a house on the same without the permission and consent of petitioners. The spouses' entry into the land was, therefore, effected

<sup>9</sup> *Sarmienta, et al. v. Manalite Homeowners Asso., Inc.*, 647 Phil. 53, 61 (2010).

<sup>10</sup> *Id.* at 63-64.

<sup>11</sup> *Nuñez v. SLTEAS Phoenix Solutions, Inc.*, 632 Phil. 143, 153 (2010).

<sup>12</sup> *Rollo*, pp. 43-46.

<sup>13</sup> Black's Law Dictionary (5th ed., 1979), p. 1267.

clandestinely, without the knowledge of the owners. Consequently, it is categorized as possession by stealth which is forcible entry.<sup>14</sup>

The CA correctly held that the allegations of the complaint failed to state the essential elements of an action for unlawful detainer. The allegation that the Spouses Punzalan entered the subject property and constructed their house on a portion of the same without petitioners' knowledge and consent is more consistent with an action for forcible entry, which should have been filed within a year from the discovery of said illegal entry.<sup>15</sup> Instead, petitioners allowed them to stay, thinking that they would simply accede if asked to vacate the premises. Certainly, petitioners' kind tolerance came, not from the inception, as required to constitute unlawful detainer, but only upon learning of the unlawful entry.

In the similar case of *Zacarias v. Anacay*,<sup>16</sup> the petitioner argued that unlawful detainer was the proper remedy, considering that she merely tolerated respondents' stay in the premises after demand to vacate was made upon them. They had, in fact, entered into an agreement and she was only forced to take legal action when respondents reneged on their promise to vacate the property after the lapse of the period agreed upon. The Court held that the MCTC clearly had no jurisdiction over the case as the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer. As in said case, the complaint in the case at bar likewise failed to allege a cause of action for unlawful detainer as it did not describe possession by the Spouses Punzalan being initially legal or tolerated by petitioners and which merely became illegal upon the latter's termination of such lawful possession. The fact that petitioners actually tolerated the spouses' continued occupation after discovery of their entry into the subject premises will not and cannot automatically create an action for unlawful detainer. Such possession could not have possibly been legal from the start as it was without their knowledge or consent, much less based on any contract, express or implied. What is decisive is the nature of the defendant's entry into or initial possession of the property. It must be stressed that the defendant's possession in unlawful detainer is originally legal but simply became illegal due to the expiration or termination of the right to possess. The plaintiff's supposed acts of tolerance must have been present right from the start of the possession. Otherwise, if the possession was already unlawful at the outset, it would constitute an action for forcible entry, and the filing of one for unlawful detainer would be an improper remedy. To hold otherwise would espouse a dangerous doctrine, and for two reasons: (1) forcible entry into the land is an open challenge to the right of the possessor. Violation of that right authorizes a speedy redress in the inferior court provided for in the rules. But if one (1) year from the entry is allowed to lapse before a suit is filed, then the remedy ceases to be speedy,

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<sup>14</sup> *Zacarias v. Anacay*, G.R. No. 202354, September 24, 2014, 736 SCRA 508, 521.

<sup>15</sup> *Id.* at 519.

<sup>16</sup> *Supra* note 14.

and the possessor is deemed to have waived his right to seek relief in the inferior court; and (2) if a forcible entry action in the inferior court is allowed after the lapse of a number of years, then the result may well be that no action of forcible entry can actually prescribe. No matter how long such defendant has already been in physical possession, the plaintiff will merely have to make a demand, file a case upon a plea of tolerance – to prevent prescription from setting in – and summarily throw him out of the land. Such a conclusion is unreasonable. Especially if we bear in mind the postulates that proceedings of forcible entry and unlawful detainer are summary in nature, and that the one (1)-year time-bar to initiate a suit is but in pursuance of the summary nature of the action.<sup>17</sup> Since the prescriptive period for filing an action for forcible entry had lapsed, petitioner could not convert her action into one for unlawful detainer, reckoning the one (1)-year period to file her action from the time of the demand to vacate.<sup>18</sup>

Verily, to vest the court jurisdiction to effect the ejectment of an occupant, it is necessary that the complaint should embody such a statement of facts as brings the party clearly within the class of cases for which the statutes provide a remedy, as these proceedings are summary in nature. The complaint must show enough on its face to give the court jurisdiction without having to resort to parol testimony.<sup>19</sup>

In the instant case, the allegations in the complaint do not contain any averment of fact that would substantiate petitioners' claim that they permitted or tolerated the occupation of the property by the Spouses Punzalan right from the start. This failure of petitioners to allege the key jurisdictional facts constitutive of unlawful detainer is fatal. Since the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer, the MCTC corollarily failed to acquire jurisdiction over the case.<sup>20</sup>

Indeed, a void judgment for lack of jurisdiction is no judgment at all. It cannot be the source of any right neither can it be the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. The same can never become final and any writ of execution based on it will be void.<sup>21</sup>

Petitioners may be the lawful possessors of the subject property, but they unfortunately availed of the wrong remedy to recover possession.



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<sup>17</sup> *Id.* at 519.

<sup>18</sup> *Id.*

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

<sup>20</sup> *Id.* at 521.

<sup>21</sup> *Id.* at 522.

Nevertheless, they may still opt to file an *accion publiciana* or *accion reivindicatoria* with the proper RTC.<sup>22</sup>

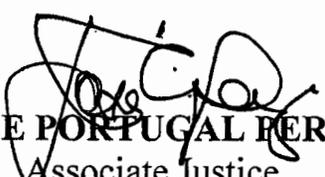
**WHEREFORE, IN VIEW OF THE FOREGOING**, the petition is **DENIED**. The Decision of the Court of Appeals, dated February 17, 2012, and its Resolution dated July 25, 2012 in CA-G.R. SP No. 112959, are hereby **AFFIRMED**.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

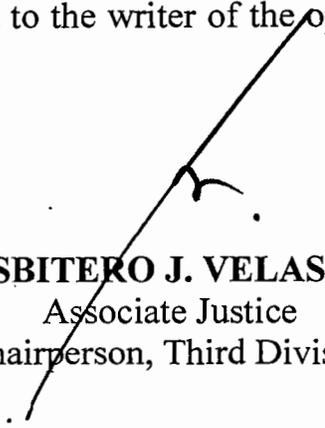
  
**FRANCIS H. JARDELEZA**  
Associate Justice

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<sup>22</sup> *Id.* at 514.

**ATTESTATION**

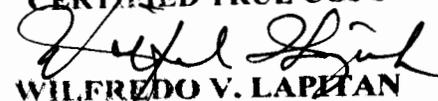
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, 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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

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