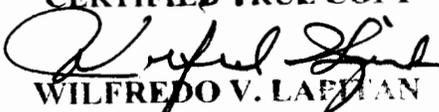




Republic of the Philippines
Supreme Court
 Baguio City

CERTIFIED TRUE COPY

WILFREDO V. LAFLAN
 Division Clerk of Court
 Third Division

MAY 25 2018

THIRD DIVISION

PABLO C. HIDALGO,
 Petitioner,

G.R. No. 202217

Present:

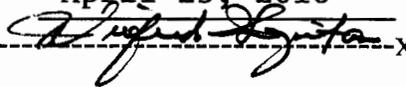
VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, JJ.

- versus -

SONIA VELASCO,
 Respondent.

Promulgated:

April 25, 2018

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

DECISION

MARTIRES, J.:

THE CASE

Before the Court is a Petition for Review on Certiorari¹ assailing the Decision² dated 6 March 2012 and the Resolution³ dated 31 May 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 120649. In fine, the CA affirmed the ruling of the Regional Trial Court, Branch 22, Narvacan, Ilocos Sur (RTC), in Civil Case No. 3211-N that the Municipal Circuit Trial Court, Narvacn-Nagbukel, Ilocos Sur (MCTC) had no jurisdiction over petitioner Pablo B. Hidalgo's (*petitioner*) Complaint for Unlawful Detainer and Damages, which was filed and docketed in said trial court as Civil Case No. 636-N.



¹ Rollo, pp. 3-25; Under Rule 45 of the Rules of Court.

² Id. at 26-38; penned by Associate Justice Isaias P. Dican, and concurred in by Associate Justices Aurora C. Lantion and Ramon A. Cruz.

³ Id. at 39-40.

We required⁴ the parties to submit their respective comment⁵ and reply.⁶ They complied.

THE FACTS

At controversy is the possession of a Three Hundred Fifty-Two (352) square meters piece of residential land in Brgy. Santa Lucia, Municipality of Narvacan, Province of Ilocos Sur, denominated as Cadastral Lot No. 77.

Petitioner claims that in year 2000 its previous owner, the late Juana H. Querubin, executed a Deed of Donation in his favor, conveying three (3) parcels of land unto him, including Cadastral Lot No. 77; consequently, Tax Declaration No. 92-001-00987⁷ was issued in his name.

Sometime in January 2005, petitioner visited Cadastral Lot No. 77 and saw, to his surprise, that herein respondent Sonia Velasco (*respondent*) was in possession of the property. He sent several letters demanding that she vacate; the last demand letter was dated 9 January 2006. Respondent replied. In a letter dated 2 February 2006, she informed petitioner that per the instructions of one Josefina Reintegrado Baron, whom she claimed was the property's owner and from whom she derived her rights, she was not to allow petitioner to take its possession.⁸

The case before the MCTC

On 8 December 2006, petitioner filed before the MCTC, a complaint for Unlawful Detainer with Damages against respondent, docketed as Civil Case No. 636-N. As the averments of this ejectment complaint are the focus of the present review, the Complaint for Unlawful Detainer with Damages is pertinently reproduced below in full, *viz*:

COMPLAINT

[Petitioner], through the undersigned counsel and unto this Honorable Court respectfully alleges that:

1. [Petitioner] is of legal age, married, Filipino citizen and a resident of No. 504-A Mabini Street, Caloocan City while [respondent] is also of legal age, married, Filipino Citizen and a resident of Barangay Sta. Lucia Narvacan, Ilocos Sur, where summons and other processes of this Honorable Court may be served;


⁴ Id. at 161-162; Resolution dated 16 July 2012; Id. at 25; Resolution dated 25 February 2013.

⁵ Id. at 163-165; Comment.

⁶ Id. at 186-189; Reply.

⁷ Id. at 79.

⁸ Id. at 27-28.

2. On August 3, 2000 Juana H. Querubin executed a Deed of Donation over three (3) parcels of land in favor of [petitioner] duly acknowledged by Atty. Roman Mario V. Panem, Notary Public, with Document No. 189, Page No. 39, Book No. XIV, Series of 2000 which instrument was registered with the Register of Deeds with Entry No. 1070, Page 68, Volume 73, on December 15, 2000. Copy of the Deed of Donation is hereto attached and marked as Annex "A" and is made an integral part of this Complaint.
3. By virtue of the said Deed of Donation, ownership over the three (3) parcels of land subject of donation have been transferred unto [petitioner] who has all the legal rights to exercise the attributes of ownership provided to him under the law;
4. Sometime on January 2005 when [petitioner] had the occasion to visit one (1) of the three (3) parcels of land which has been donated unto him, more particularly described as follows:

Cadastral Lot No. 77

"A residential land situated at Sta. Lucia, Narvacan, Ilocos Sur, bounded on the North by Rizal Street; on the East by Lot No. 78; on the South by Lot No. 761; And on the West by Lot No. 76 containing an area of THREE HUNDRED FIFTY TWO (352) square meters more or less, with Tax Declaration No. 92-001-00987 in the name of Pablo Hidalgo."

he was surprised to know that [respondent] had been occupying the same without his permission to his prejudice. Copy of the Tax Declaration of said lot is hereto attached and marked as Annex "B;"

5. As the lawful owner of the above described property, [petitioner] demanded the [respondent] to vacate the same by sending several demand letters, the most recent of which was on January 9, 2006. Copies of the demand letters are hereto attached and marked as Annexes "C" and "C-1;"
6. All of the said demand letters sent by [petitioner] have been received and acknowledged by the [respondent] as evidenced by her reply, attached herewith and marked as Annexes "D" and "D-1," where she categorically sated that she will NOT VACATE the property subject of this suit thereby unlawfully and illegally withholding possession of the property of the [petitioner];
7. The refusal and continued refusal of the [respondent] to vacate the premises of the subject property has deprived [petitioner] to hold possession and beneficial use of the property for which [respondent] should be made to pay a monthly rental of Five Thousand Pesos (Php5,000) per month from the year 2005 up to the final determination of this case;



8. Due to the [respondent's] malicious and wanton refusal to vacate the property in suit, [petitioner] was constrained to hire the services of a lawyer to protect his rights and interests for a fee of TWENTY THOUSAND PESOS (Php20,000.00) for which [respondent] should be made answerable to [petitioner];
9. Herein [petitioner] has suffered anxiety, sleepless nights and wounded feelings for having been unlawfully deprived of possession over the subject property for which [respondent] is liable to [petitioner] moral damages in the amount of FIFTY THOUSAND PESOS (Php50,000.00).

PRAYER

WHEREFORE, WITH ALL THE FOREGOING, it is respectfully prayed unto this Honorable Court that judgment be rendered:

1. Ordering the [respondent] to vacate the subject property;
2. Ordering the [respondent] to pay the [petitioner] the amount of Five Thousand Pesos (Php5,000.00) as reasonable compensation for the use of the subject property from January 2005, until the subject property is vacated and restored to the [petitioner];
3. Ordering the [respondent] to pay [petitioner] the amount of Twenty Thousand Pesos for and as attorney's fees;
4. Ordering the [respondent] to pay [petitioner] the amount of Fifty Thousand Pesos by way of moral damages.
5. Ordering [respondent] to pay the cost of the suit.

Other reliefs just and equitable under the circumstances are likewise prayed for.⁹

x x x x

In her Answer, respondent contended, in the main, that the MCTC had no jurisdiction over the Complaint for Unlawful Detainer with Damages, and raised the additional defenses, to wit: *first*, that Josefina Reintegrado Baron had not been impleaded as party defendant; *second*, that the ejectment complaint was not compliant with the one-year filing period for unlawful detainer cases; and, *third*, that petitioner was guilty of laches.¹⁰

After a preliminary hearing held for the purpose of dealing with the jurisdictional issue, on 30 July 2008 the MCTC issued an order¹¹ upholding its jurisdiction over the ejectment complaint. Trial ensued, during which, incidentally, the parties presented evidence on their respective ownership

⁹ Id. at 41-45.

¹⁰ Id. at 6-7.

¹¹ Id. at 51-53.



claims. Petitioner's documentary evidence in this regard includes the Deed of Donation allegedly executed by Juana H. Querubin, Tax Declaration No. 92-001-00987, tax receipts, and a certification issued by the Municipal Assessor on petitioner's payment of the realty taxes on Cadastral Lot No. 77 from 1994 to 2009.¹² Respondent's documentary submissions include, among others, tax declarations in her name, an affidavit by a certain Atty. Roman Mario Panem alleging that there was a mistake in the Deed of Donation executed by Juana H. Querubin, and a Deed of Quitclaim executed for Josefina Reintegrado Baron.

On 21 June 2010, and after the filing of position papers,¹³ the MCTC issued a ruling. It resolved the ejectment suit in petitioner's favor.¹⁴ The MCTC disclosed that it had conducted a preliminary inquiry into the ownership of Cadastral Lot No. 77 and found that it was petitioner's evidence, not respondent's, that was preponderant.¹⁵ The court took pains to emphasize that its ruling in this regard was merely provisional, and that the matter of the ownership of Cadastral Lot No. 77 should best be ventilated and resolved in a separate action, where ownership was specifically placed at issue.¹⁶ The MCTC further ruled that Josefina Reintegrado Baron was not an indispensable party in the present case as the issue to be resolved therein, being an ejectment case, was who between the parties had the better right to possess Cadastral Lot No. 77.¹⁷ The court then stated that the running of the one-year period for the filing of an unlawful detainer suit was to be reckoned from the date of the last demand.¹⁸ Finally, the MCTC held that petitioner could not be held guilty of laches as there was no reason to presume that he had decided to abandon his ownership rights over Cadastral Lot No. 77.¹⁹ The dispositive of the MCTC Decision reads:

WHEREFORE, premises considered, the [respondent], including any person claiming rights under her, is ordered to:

- (1) Vacate the subject premises;
- (2) Pay the [petitioner] at the rate of Php2,000.000 per month from January 9, 2006 up to the time she actually vacates from the subject premises or the amount of Php108,000.00 from January 9, 2006 to June 9, 2010 plus such amount as may be determined thereafter based on the above-stated rate;
- (3) Attorney's Fees of Ten Thousand Pesos (Php10,000.00); and
- (4) Cost of suit.²⁰



¹² Id. at 79.

¹³ Id. at 54-76.

¹⁴ Id. at 78-87.

¹⁵ Id. at 81-83.

¹⁶ Id. at 83.

¹⁷ Id. at 85.

¹⁸ Id. at 79.

¹⁹ Id. at 86.

²⁰ Id. at 87.

The case before the RTC

Respondent filed an appeal with the RTC, which was docketed as Civil Case No. 3211-N.

Incidentally, petitioner filed Motion for Immediate Execution of Judgment Pending Appeal before the same court,²¹ bemoaning that he had filed a similar motion before the MCTC and that respondent had failed to post a supersedeas bond to stay the same. He demanded the immediate execution of the MCTC's judgment in his favor, following Section 19 of Rule 70 of the Rules of Court.²²

On 15 April 2011, the RTC rendered a decision²³ in respondent's favor. It observed that petitioner had failed to aver in the Complaint for Unlawful Detainer with Damages certain jurisdictional elements as to qualify the complaint as an unlawful detainer suit. For instance, he failed to aver that respondent had held possession of Cadastral Lot No. 77 by virtue of an express or implied contract that later expired or terminated.²⁴ On this basis, the RTC dismissed the complaint for its failure to state a cause of action for unlawful detainer. Incidentally, it also ruled that it could not entertain the same complaint as a suit for forcible entry.²⁵

Petitioner filed a Motion for Reconsideration.²⁶ The motion was denied.²⁷

The Ruling of the CA

Aggrieved, petitioner filed a Petition for Review before the CA, which was docketed as C.A.-G.R. SP No. 120649.

As already noted, the appellate court affirmed the dismissal of the subject Complaint for Unlawful Detainer with Damages. In fine, the CA agreed with the RTC that the MCTC had no jurisdiction over the complaint. We quote the appellate court's discussion and dispositive portion in this regard, in order that the ruling under our review may speak for itself:

[T]he allegations in the complaint failed to make out a case for unlawful detainer. It clearly did not contain any averment of fact that

²¹ Id. at 88-91.

²² Id. at 89-90.

²³ Id. at 98-103.

²⁴ Id. at 100.

²⁵ Id. at 103.

²⁶ Id. at 104-109.

²⁷ Id. at 111; Order dated 11 July 2011.



would substantiate petitioner's claim **that he permitted or tolerated the occupation of the property by the respondent**. The complaint made out by the petitioner is for forcible entry which the MCTC cannot duly take cognizance of because there is no statement in the complaint as to when the respondent entered into the premises of the land.

Furthermore, and as the record of the case would bear out, it is worthy to note that **no express contract admittedly existed between the parties. Neither could we appropriately conclude that an implied one exists as petitioner failed to support his claim as to the presence of tolerance.**

This failure of petitioner 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 municipal trial court had no jurisdiction over the case.

It is in this light that this Court finds that the Regional Trial Court correctly found that the Municipal Circuit Trial Court had no jurisdiction over the complaint.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **DENYING** the instant petition. The Decision dated April 15, 2011 rendered by Branch 22 of the Regional Trial Court in Narvacan, Ilocos Sur in Civil Case No. 3211-N is hereby **AFFIRMED**.²⁸

Hence, the present Petition for Review.

The Petition for Review on Certiorari

Before this Court, petitioner insists that the subject complaint sufficiently amounted to a case for unlawful detainer.²⁹ This insistence pivots on the following pleaded points. *First*, that since respondent "is the one physically in possession of the property, hence, it is she who should be ejected from the property subject matter of the suit. To eject her from the property is clearly in order."³⁰ *Second*, that since the "Deed of Quitclaim" on which Josefina Reintegrado Baron anchored her claim of ownership to the property was not registered, it could not bind third persons and thus should be deemed as weak evidentiary weight.³¹ *Third*, the RTC's denial of petitioner's motion for execution pending appeal was erroneous, as "[p]etitioner was entitled to such relief simply based on the rules."³²



²⁸ Id. at 36-37.

²⁹ Id. at 14.

³⁰ Id. at 19.

³¹ Id.

³² Id. at 21.

THE COURT'S RULING

We affirm the dismissal of the subject ejectment complaint.

DISCUSSION

It is immediately observable that the petition ill persuades. While the petition rhapsodizes on the supposed merits of the subject Complaint for Unlawful Detainer with Damages as an action for unlawful detainer *viz*, “We believe that the elements of unlawful detainer have been sufficiently, if not substantially, established by Petitioner in the case below”,³³ it does not refer to any specific averment in said complaint to support this critical point.

Such failure is fatal. What is at issue before this Court is the jurisdiction of the MCTC over the complaint at bar. The basic rule is that what determines the nature of an action, as well as the court which has jurisdiction over it, are the allegations in the complaint.³⁴ In ejectment complaints, such allegations must correspond to the classes of actions defined and provided for in **Section 1, Rule 70** of the Rules of Court, namely forcible entry and unlawful detainer.³⁵

The complaint at bar identifies itself as an unlawful detainer suit. In *Cabrera v. Getaruela*,³⁶ the Court held that a complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

1. That initially, the possession of the property by the defendant was by contract with or by tolerance of the plaintiff;
2. That eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. That thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
4. That within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.³⁷

These averments are jurisdictional and must appear on the face of the complaint.³⁸ As demonstrable on its face, the subject complaint fails to aver, at the very least, the first and the second recitals. We thus agree with both

³³ *Rollo*, p. 14.

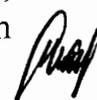
³⁴ Cf. *Zacarias v. Anacay*, 744 Phil. 201, 207 (2014).

³⁵ *Id.* at 207-208

³⁶ 604 Phil. 59 (2009).

³⁷ *Id.* at 66.

³⁸ C.f. *Zacarias vs Anacay*, *supra* note 34 at 211.



the RTC and the CA that it fails to satisfy the jurisdictional requirements of an action for unlawful detainer, following which, the MCTC could not exercise jurisdiction over it.

Incidentally, we agree with the appellate court that the recitals in the complaint are more in tune with those in a complaint for forcible entry. In *Zacarias v. Anacay*,³⁹ we gave this observation on the supposed “unlawful detainer” complaint subject of that case:

The bare allegation of petitioner that “sometime in May, 2007” she discovered that the defendants have entered the subject property and occupied the same,” as correctly found by the MCTC and CA, would show that respondents entered the land and built their houses thereon clandestinely and without petitioner’s consent, which facts are constitutive of forcible entry, not unlawful detainer.⁴⁰

We likewise agree with the conclusion that the MCTC would still not be able to validly exercise jurisdiction over the subject complaint even if it were to be treated as an action for forcible entry. That said, we cannot agree with how CA reached this conclusion. To recall, according to the appellate court, the subject complaint could not be deemed a viable action for forcible entry because it did not aver a date as to when respondent had entered the premises of Cadastral Lot No. 77. Such *rationale* is not consistent with our above quoted observation in *Zacarias v. Anacay*. To this Court’s mind, then, the proper basis lies in the subject ejectment complaint’s failure to be filed on time. In *Nuñez v. Sltas Phoenix Solutions, Inc.*,⁴¹ we held:

The one-year period within which to bring an action for forcible entry is generally counted from the date of actual entry on the land, except that when the entry is through stealth, the one-year period is counted from the time plaintiff learned thereof.⁴²

In the present case, petitioner discovered respondent’s entry “Sometime on January 2005.”⁴³ Hence, he had until January 2006 within which to file the necessary ejectment suit. He filed the present complaint over a year later, on 8 December 2006.

Given the foregoing, the rest of the arguments in the petition warrant little consideration. Suffice it to say that the petition also raises a question of fact that the Court cannot entertain under Rule 45.



³⁹ Supra note 34.

⁴⁰ Id. at 213.

⁴¹ 632 Phil. 143 (2010).

⁴² Id. at 153.

⁴³ *Rollo*, p. 42.

A note in passing. We are aware that with the dismissal of the present petition, the controversy between the parties may or may not still subsist. In similar vein, we have previously observed that when the complaint fails to aver the facts constitutive of forcible or unlawful detainer, as where it does not state how entry was effected or how and when dispossession started, the remedy should either be *accion publiciana* or an *accion reivindicatoria*⁴⁴ filed before the proper RTC. Should any controversy still subsist between the parties, they may review their options and decide on their proper recourses. For now, the recourse of the petitioner to ejectment must be dismissed.⁴⁵

WHEREFORE, the petition is **DENIED** for lack of merit. The Decision dated 6 March 2012 and the Resolution dated 31 May 2012 of the Court of Appeals in CA-G.R. SP No. 120649 are hereby **AFFIRMED**.

SO ORDERED.

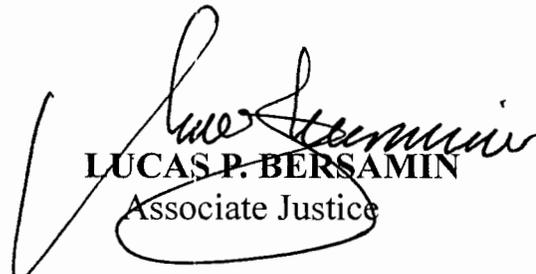


SAMUEL R. MARTIRES
Associate Justice

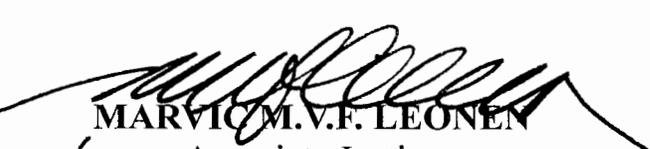
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

⁴⁴ *Serdoncillo v. Benolirao*, 358 Phil. 83, 95 (1998) citing *Sarmiento v. CA*, 320 Phil. 146, 156 (1995)

⁴⁵ Cf. *Quijano v. Amante*, 745 Phil. 40, 53 (2014).


ALEXANDER G. GESMUNDO
 Associate Justice

ATTESTATION

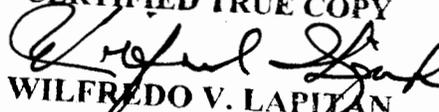
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


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.


ANTONIO T. CARPIO
 Acting Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

MAY 25 2018

