



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**BONIFACIO**  
represented  
**INSPIRACION**  
**DANA O,**

by

**PIEDAD,**  
**MARIA**  
**PIEDAD-**

Petitioner,

- versus -

**SPOUSES**  
**GURIEZA and**  
**GURIEZA**

**VICTORIO**  
**EMETERIA M.**  
Respondents.

**G.R. No. 207525**

Present:

BRION, J.,\* Acting Chairperson,  
DEL CASTILLO,  
PEREZ,  
MENDOZA,\*\* and  
PERLAS-BERNABE, JJ.

Promulgated:

JUN 18 2014

*H. Cabalag Perfecto*

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**DECISION**

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated February 18, 2013 and the Resolution<sup>3</sup> dated June 5, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 117686 which reversed and set aside the Decision<sup>4</sup> dated October 27, 2010 of the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 28 (RTC) in Civil Case No. 6974 and dismissed petitioner Bonifacio Piedad's (Bonifacio) Complaint for Unlawful Detainer and Damages against respondents-spouses Victorio Gurieza and Emeteria M. Gurieza (Sps. Gurieza).

\* Designated Acting Chairperson per Special Order No. 1699 dated June 13, 2014.

\*\* Designated Acting Member per Special Order No. 1696 dated June 13, 2014.

<sup>1</sup> *Rollo*, pp. 8-45.

<sup>2</sup> Id. at 285-295. Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla, concurring.

<sup>3</sup> Id. at 331-332.

<sup>4</sup> Id. at 175-178. Penned by Presiding Judge Fernando F. Flor, Jr.

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### The Facts

The instant case stemmed from a Complaint for Unlawful Detainer and Damages<sup>5</sup> filed by Bonifacio against Sps. Gurieza before the Municipal Trial Court of Bayombong, Nueva Vizcaya (MTC), docketed as Civil Case No. 3877. In his complaint, Bonifacio alleged that he is the absolute owner of the  $\frac{1}{3}$  middle portion of a parcel of residential land designated as Lot 1227, located at La Torre, Bayombong, Nueva Vizcaya, with an area of 4,640.98 square meters (subject lot) which he acquired through intestate succession from his late father who inherited the same from the latter's parents, Alejandro Piedad (Alejandro) and Tomasa Villaray (Tomasa). He also claimed that his ownership of the subject lot took place even before his father's death and was validated through a Deed of Confirmation of an Adjudication and Partition (Deed of Confirmation) executed by Alejandro and Tomasa's legal heirs. Further, Bonifacio alleged that before migrating to Hawaii, he built a bungalow on the subject lot and assigned numerous caretakers to look after it, the last of which were Sps. Gurieza. Sometime in 2005, however, Sps. Gurieza allegedly took interest of the bungalow and the subject lot after learning from an employee of the Department of Environment and Natural Resources (DENR) that Lot 1227 is public land. Using such information, Sps. Gurieza had the subject lot declared under their name for tax purposes, caused a subdivision survey of Lot 1227, and filed an application for survey authority and titling with the Bureau of Land Management, Community Environment and Natural Resources Office of the DENR, Bayombong, Nueva Vizcaya (CENRO – DENR Nueva Vizcaya).<sup>6</sup>

When Bonifacio learned of Sps. Gurieza's acts, he authorized Ofelia Bay-ag to file a protest before the DENR which deferred further action on their (Sps. Gurieza's) application before it. Thereafter, Bonifacio sent his daughter, Maria Inspiracion Piedad-Danao (Danao), to the country to personally demand that Sps. Gurieza vacate the subject lot unconditionally; and for this purpose, Danao initiated a complaint before the barangay court. However, during the mediation proceedings, Sps. Gurieza refused to heed Danao's demand and even challenged her to go to higher courts. Thus, Bonifacio was constrained to file the instant case as his last resort.<sup>7</sup>

In their defense, Sps. Gurieza denied Bonifacio's claim and maintained that in 1974, the subject lot was a vacant and virginal public land and that the DENR allowed them to possess and occupy the same in the concept of an owner. As such, they acquired the same through acquisitive prescription. They likewise assailed the authenticity and validity of the Deed of Confirmation, contending that it was only signed by a few heirs of Alejandro and Tomasa.<sup>8</sup>

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<sup>5</sup> Id. at 48-52.

<sup>6</sup> See id. at 286-287.

<sup>7</sup> See id. at 287.

<sup>8</sup> See id.

### **The MTC Ruling**

In a Decision<sup>9</sup> dated May 8, 2009, the MTC ruled in Bonifacio's favor, and, accordingly, ordered Sps. Gurieza to vacate the subject lot, and pay Bonifacio the amount of ₱50,000.00 as attorney's fees and costs of suit. It found that Bonifacio had a better right of possession over the subject lot as evidenced by the house he built thereon as early as the 1950s when he took possession of the said lot, as well as the affidavits of witnesses who are pioneer residents of the area, attesting that Sps. Gurieza's claim over such lot is preposterous.<sup>10</sup> Further, the MTC also found that Sps. Gurieza's continuous stay on the subject lot was by Bonifacio's mere tolerance and such stay became illegal when they refused to vacate the said lot despite the latter's demand. Consequently, Bonifacio "may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of [his] property and [the] filing of this case is the remedy granted [to him] by law."<sup>11</sup>

Dissatisfied, Sps. Gurieza appealed to the RTC, which was docketed as Civil Case No. 6974.

### **The RTC Ruling**

In a Decision<sup>12</sup> dated October 27, 2010, the RTC affirmed the MTC ruling *in toto*. Similarly, the RTC found that the documentary and testimonial evidence presented by both parties clearly showed that Bonifacio indeed had better possessory rights over the subject lot and the bungalow-type house built thereon than Sps. Gurieza.

Aggrieved, Sps. Gurieza elevated the case to the CA by way of petition for review.<sup>13</sup>

### **The CA Ruling**

In a Decision<sup>14</sup> dated February 18, 2013, the CA reversed and set aside the RTC ruling, and consequently, ordered the dismissal of Bonifacio's Complaint for Unlawful Detainer and Damages. The CA found, upon further scrutiny of the Deed of Confirmation, that Emeteria M. Gurieza, whom Bonifacio recognized as one of the heirs of the subject lot, among others, as well as the other heirs of Alejandro and Tomasa, did not sign the Deed of Confirmation. As such, the CA did not give credence to the said document

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<sup>9</sup> Id. at 102-120. Penned by Presiding Judge Paul R. Attolba, Jr.

<sup>10</sup> Id. at 115-116.

<sup>11</sup> Id. at 118.

<sup>12</sup> Id. at 175-178.

<sup>13</sup> Id. at 179-203.

<sup>14</sup> Id. at 285-295.

and ratiocinated that “[a]bsent credible proof that the subject [lot] was ever partitioned by the heirs of [Alejandro and Tomasa], x x x Emeteria continues to be a co-owner thereof,” and, hence, cannot be ejected from the same.<sup>15</sup>

Bonifacio moved for reconsideration but was, however, denied in a Resolution<sup>16</sup> dated June 5, 2013, hence, this petition.

### **The Issue Before the Court**

The primordial issue for the Court’s resolution is whether or not the CA correctly reversed the RTC ruling and, consequently, dismissed Bonifacio’s Complaint for Unlawful Detainer and Damages against Sps. Gurieza.

### **The Court’s Ruling**

The petition is meritorious.

Unlawful detainer is an action to recover possession of real property from one who unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. The possession of the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess. The only issue to be resolved in an unlawful detainer case is the physical or material possession of the property involved, independent of any claim of ownership by any of the parties.<sup>17</sup>

An ejectment case, based on the allegation of possession by tolerance, falls under the category of unlawful detainer. Where the plaintiff allows the defendant to use his/her property by tolerance without any contract, the defendant is necessarily bound by an implied promise that he/she will vacate on demand, failing which, an action for unlawful detainer will lie.<sup>18</sup>

Thus, under Section 1, Rule 70 of the Rules of Court, the complaint must be filed “within one (1) year after such unlawful deprivation or withholding of possession” and must allege that: (a) the defendant originally had lawful possession of the property, either by virtue of a contract or by tolerance of the plaintiff; (b) eventually, the defendant’s possession of the property became illegal or unlawful upon notice by the plaintiff to defendant of the expiration or the termination of the defendant’s right of possession;

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<sup>15</sup> Id. at 293-294

<sup>16</sup> Id. at 331-332.

<sup>17</sup> *Manila Electric Company v. Heirs of Spouses Dionisio Deloy and Praxedes Martonito*, G.R. No. 192893, June 5, 2013, 697 SCRA 486, 496.

<sup>18</sup> Id. at 497.

(c) thereafter, the defendant remained in possession of the property and deprived the plaintiff the enjoyment thereof; and (d) within one (1) year from the unlawful deprivation or withholding of possession, the plaintiff instituted the complaint for ejectment.<sup>19</sup>

In this light, the Court shall solely resolve the issue as to who between the parties has the better right of possession *de facto* over the subject lot. Corollary thereto, issues pertaining to ownership are better threshed out in another action instituted for such purpose.

After a judicious perusal of the records, the Court holds that Bonifacio had clearly established his cause of action for unlawful detainer. The following established facts impel this conclusion:

***First***, the evidence shows that as early as the 1950s, Bonifacio already had possession of the subject lot and even built a bungalow-type house thereon. Moreover, when he migrated to Hawaii, Bonifacio appointed numerous caretakers to the said house and lot, the last being Sps. Gurieza. Thus, despite his migration to Hawaii, Bonifacio never relinquished said possession over the house and lot. Consistent with Article 524<sup>20</sup> of the Civil Code, it is well-settled that “[i]t is not necessary that the owner of a parcel of land should himself occupy the property as someone in his name may perform the act. In other words, the owner of real estate has possession, either when he himself is physically in occupation of the property, or when another person who recognizes his rights as owner is in such occupancy.”<sup>21</sup> Thus, the Sps. Gurieza’s stay on the subject lot was only made possible through the mere tolerance of Bonifacio.

***Second***, when Bonifacio learned that Sps. Gurieza declared the subject lot under their name for tax purposes, caused a subdivision survey of Lot 1227, and filed an application for survey authority and titling with the CENRO–DENR Nueva Vizcaya, he immediately took steps to terminate their tolerated stay on the subject lot and house and demanded that they leave immediately, rendering the Sps. Gurieza’s stay on the subject lot illegal.

***Third***, instead of vacating the subject lot, Sps. Gurieza defied Bonifacio’s demand and asserted their ownership over the same. Moreover, they even challenged Danao to go to the courts to have them removed from

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<sup>19</sup> *Union Bank of the Philippines v. Maunlad Homes, Inc.*, G.R. No. 190071, August 15, 2012, 678 SCRA 539, 545-546.

<sup>20</sup> Article 524 of the Civil Code provides:

Art. 524. Possession may be exercised in one’s own name or in that of another.

<sup>21</sup> *Heirs of Rogelio Isip, Sr. v. Quintos*, G.R. No. 172008, August 1, 2012, 678 SCRA 104, 113, citing *Reyes v. CA*, 374 Phil. 236, 242-243 (1999).

such lot. In effect, Sps. Gurieza was able to unlawfully withhold possession of the subject lot from Bonifacio.

***Lastly***, Bonifacio, through Danao, made his final demand to Sps. Gurieza on January 14, 2008, as evidenced by a Certificate to File Action issued by the Barangay Captain of the area where the subject lot was located, stating that the Sangguniang Barangay had tried to settle the dispute between the parties but failed to do so,<sup>22</sup> and filed his complaint on June 24, 2008, or within the one (1) year period from his last demand.<sup>23</sup>

In view of the foregoing, the Court thus holds that the CA erred in dismissing Bonifacio's Complaint for Unlawful Detainer and Damages against Sps. Gurieza. Perforce, a reversal of its ruling is proper.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated February 18, 2013 and the Resolution dated June 5, 2013 of the Court of Appeals in CA-G.R. SP No. 117686 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated October 27, 2010 of the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 28 in Civil Case No. 6974 is **REINSTATED**.

**SO ORDERED.**

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

**WE CONCUR:**

  
**ARTURO D. BRION**  
 Associate Justice  
 Acting Chairperson

  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

<sup>22</sup> See *rollo*, pp. 152-153.

<sup>23</sup> "The importance of making a demand cannot be overemphasized, as it is jurisdictional in nature. The one-year prescriptive period for filing a case for unlawful detainer is tacked from the date of the last demand, the reason being that the other party has the right to waive the right of action based on previous demands and to let the possessor remain on the premises for the meantime." (See *Mirallosa v. Carmel Development, Inc.*, G.R. No. 194538, November 27, 2013; citations omitted)



**JOSE CATRAL MENDOZA**  
Associate Justice

**A T T E S T A T I O N**

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.



**ARTURO D. BRION**  
Associate Justice  
Acting Chairperson, Second Division

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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