



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

ROI GUZMAN DAVID,

G.R. No. 220996

Petitioner,

Present:

- versus -

GESMUNDO, C.J., Chairperson,
 CAGUIOA,
 INTING,
 GAERLAN,* and
 DIMAAMPAO, JJ.

CARIDAD D. BUTAY,

Promulgated:

Respondent.

APR 26 2022

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D E C I S I O N

INTING, J.:

Assailed in this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court are the Decision² dated February 12, 2015 and the Resolution³ dated September 4, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 130611. The CA set aside the Decision⁴ dated February 21, 2013 and the Order⁵ dated June 11, 2013 of Branch 10, Regional Trial Court (RTC), La Trinidad, Benguet in Civil Case No. 11-CV-2734. The RTC affirmed with modification only as to monetary awards the Decision⁶ dated April 5, 2011 of the 5th Municipal Circuit Trial Court (MCTC), Tuba-Sablan, Benguet that ruled in favor of Roi Guzman David⁷ (petitioner) in a forcible entry case he filed against Jose Willy (defendant Willy) and Caridad D. Butay (respondent).

* On official leave.

¹ *Rollo*, pp. 10-23.

² Id. at 26-35; penned by Associate Justice Jose C. Reyes, Jr. (a retired Member of the Court) with Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr., concurring.

³ Id. at 37-38.

⁴ Id. at 74-79; penned by Judge Edgardo B. Diaz De Rivera, Jr.

⁵ Id. at 80.

⁶ Id. at 67-73; penned by Judge Marietta S. Brawner-Cualing.

⁷ Sometimes Roi Guzman David a.k.a. Roi Vinzon in the Decision dated February 12, 2015 of the Court of Appeals.

The Antecedents

The case stemmed from an Amended Complaint⁸ for Forcible Entry and Damages with Application for Writ of Preliminary Injunction and Temporary Restraining Order (Amended Complaint) filed by petitioner against defendant Willy and respondent.

The facts are as follows:

On December 4, 2001, petitioner and defendant Willy entered into a conditional deed of sale over a 3,000-square meter land covered by Assessment of Real Property (ARP) No. 99-001-06218 (subject property) located in Gusaran, Poblacion, Tuba, Benguet. Upon execution of the conditional deed of sale, petitioner immediately took actual possession and occupation of the subject property in the concept of an owner.⁹

Sometime in 2004, the adjoining neighbors of petitioner warned him that defendant Willy sold the subject property to other persons. Thus, petitioner put up perimeter fences and a shanty on the subject land to protect his rights and to further establish his possession over it. He also demanded from defendant Willy a deed of absolute sale in his favor but to no avail.¹⁰

In 2006, defendant Willy filed a Complaint for Forcible Entry against petitioner which was dismissed for failure to prosecute on the part of defendant Willy. Since the dismissal of that case, petitioner was in peaceful possession of the subject property for a period of eight years reckoned from 2001 until 2009, or before he filed the forcible entry case against defendant Willy and respondent.¹¹

In the complaint, petitioner alleged that on November 9, 2009, he learned from his caretaker that defendant Willy, without his permission

⁸ *Rollo*, pp. 53-60.

⁹ *Id.* at 26-27.

¹⁰ *Id.* at 27.

¹¹ *Id.*

and in utter disregard of his peaceful possession and ownership, entered the subject property through force, intimidation, strategy, and stealth together with a group of unknown persons to take measurements and to make excavations for the construction of a permanent structure. Because he was in Manila at the time the incident was reported to him, he was able to verify the illegal entry of defendant Willy on the subject property only on November 18, 2009.¹²

Thus, on November 19, 2009, petitioner filed an action for forcible entry with damages originally against defendant Willy. However, during the course of the hearing, petitioner learned that defendant Willy sold to respondent a 1,553-square-meter portion of the subject property; that respondent acquired a new tax declaration in her name over the subject land; and that the group of persons conducting the construction on the subject land was respondent's employees. Consequently, after the pre-trial conference, petitioner amended his complaint to implead respondent as an additional defendant.¹³

In her answer, respondent averred the following:

On July 6, 2009, she and defendant Willy executed a deed of sale of a portion of an unregistered land over 1,553 square meters, which is a portion of the 2,640 square meters parcel of land located at Gusaran, Poblacion, Tuba, Benguet and covered by ARP No. 99-001-06695.¹⁴

At the time of the sale, petitioner or any of his representatives were not seen on the subject property. Also, the tax declaration of defendant Willy had no annotations or any encumbrances. Thus, her purchase of the subject land was in good faith. The corresponding tax declaration with ARP No. 99-001-08183 over that portion of 1,553 square meters was also issued in her favor. Thus, being the owner of the subject land, she has all the rights to put up or construct any structure thereon.¹⁵

Defendant Willy did not file his position paper to the complaint.¹⁶

¹² Id.

¹³ Id. at 27-28.

¹⁴ Id. at 28.

¹⁵ Id.

¹⁶ Id. at 69.

The Ruling of the MCTC

On April 5, 2011, the MCTC rendered a Decision¹⁷ in favor of petitioner declaring that he was able to show his prior physical possession over the subject property. It ruled that: (1) out of the total 5,000 square meters originally owned by defendant Willy, he only sold a portion of 1,553 square meters to respondent; (2) petitioner, on the other hand, acquired the 3,000 square meters which he already delineated by putting up a fence and shanty to protect his possession; (3) respondent could have easily taken possession of the 2,000 square meters that petitioner did not buy, but instead, respondent erected her structure on the 3,000 square meters that petitioner possessed; and (4) respondent forcibly deprived petitioner of his possession and occupation of the 1,553-square-meter portion of the subject property.¹⁸


The *fallo* of the MCTC Decision dated April 5, 2011 reads:

WHEREFORE, from the foregoing, judgment is hereby rendered in favor of plaintiff [*herein petitioner*] and against defendants [*defendant Willy and herein respondent*]. It is hereby ordered that:

1. Defendants, their assigns and any persons working for or acting under them to immediately vacate the portion of 3,000 square meters of the subject property covered by Tax Declaration No. 99-001-06218 registered in the name of Jose Willy and located at Gusaran, Poblacion, Tuba, Benguet and surrender the possession thereof peacefully to plaintiff;
2. Defendant Caridad Butay to pay plaintiff the amount of Php5,000.00 as monthly rental starting from November 2009 until she shall have finally vacated the subject property;
3. Defendant Jose Willy to pay the amount of Php50,000.00 as moral damages and Php50,000.00 as exemplary damages;
4. Defendants to pay jointly and solidarily pay the

¹⁷ Id. at 67-73.

¹⁸ Id. at 70-71.



amount of Php20,000,00 as Attorney's Fees; and

5. Cost of this suit.

SO ORDERED.¹⁹

Both defendant Willy and respondent appealed the MCTC Decision to the RTC.²⁰

The Ruling of the RTC

On February 21, 2013, the RTC rendered a Decision²¹ affirming the MCTC Decision in all aspects with sole modification as to monetary awards.²² The *fallo* of the RTC Decision dated February 21, 2013 reads:

WHEREFORE, finding no reversible error in the judgment appealed from, it being consistent with the facts and the laws applicable, the same is hereby AFFIRMED *in toto*. Except for the award of moral damages, costs and attorney's fees and costs [*sic*] are deleted and in lieu thereof[,] awards a nominal damage against defendant-appellant Jose Willy.

SO ORDERED.²³

Respondent filed a motion for reconsideration arguing that the RTC, as an appellate court, failed to appreciate the documentary exhibits she submitted and which proved that the MCTC Decision could not be enforced against her.²⁴

On June 11, 2013, the RTC issued an Order²⁵ denying the motion. It found that respondent was no longer interested in pursuing the motion as she failed to appear in the scheduled hearing. The RTC ruled:

¹⁹ Id. at 72.

²⁰ Id. at 74, 76, 77.

²¹ Id. at 74-79.

²² Id. at 78-79.

²³ Id.

²⁴ Id. at 80.

²⁵ Id.

As this issue raised by the appellant has some factual issues to be heard by this court which is not found on the records of this case and with the absence of the appellant herself as well as her counsel to argue the arguments for the Motion for Reconsideration, this court deems that the appellant and her counsel are no longer interested in pursuing the Motion for Reconsideration. x x x²⁶

Aggrieved, respondent filed a petition for review under Rule 42 of the Rules of Court before the CA.²⁷

The Ruling of the CA

On February 12, 2015, the CA granted the petition, accordingly set aside the RTC Decision and Order, and dismissed the Amended Complaint against respondent.²⁸

The CA ratiocinated that although petitioner was able to prove prior possession considering the earlier ejectment case filed against him by defendant Willy, there was, however, no sufficient evidence adduced to show that respondent unduly deprived him of the same lot he claimed to possess first in time. The CA added that petitioner failed to explain to its satisfaction that the area which he was physically and actually possessing was the same area on which respondent built her structure considering that both parties referred to distinct and separate parcels of land based on the respective lot descriptions contained in their corresponding tax declarations. Thus, petitioner's failure to establish the identity of the land was fatal to his case.²⁹

On Motion for Reconsideration with Manifestation,³⁰ petitioner asserted that the property occupied by respondent is a portion of the property he purchased from defendant Willy.³¹

On September 4, 2015, the CA rendered the assailed Resolution that denied petitioner's motion.³² In part, the CA discussed that in

²⁶ Id.

²⁷ Id. at 26.

²⁸ See Decision dated February 12, 2015 of the Court of Appeals (CA), id. at 26-35.

²⁹ Id. at 33.

³⁰ Id. at 81-87.

³¹ Id. at 81.

³² See Resolution dated September 4, 2015 of the CA, id. at 37-38.

petitioner's motion, he pleaded the CA to allow him to submit additional documents to dispel its doubt as to the identity of the lot he is claiming. However, the CA ruled that the documents, if any, are nothing but "forgotten evidence," or pieces of evidence already existing at the time of the trial but were not presented at that stage of the proceedings.³³

Hence, the instant petition.³⁴

Petitioner raises the following grounds for consideration of the Court:

- I. THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT PETITIONER DAVID FAILED TO PROVE THE IDENTITY OF THE SUBJECT LAND
- II. THE HONORABLE COURT OF APPEALS ERRED IN RELYING SOLELY ON EVIDENCE SUBMITTED BY RESPONDENT FOR THE FIRST TIME ON APPEAL WITH THE COURT OF APPEALS
- III. THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT PETITIONER FAILED TO PROVE THAT HE WAS UNDULY DEPRIVED OF POSSESSION BY RESPONDENT³⁵

In her Comment,³⁶ respondent maintains that the CA was correct in ruling that petitioner failed to prove the identity of the land being claimed by him and that petitioner failed to prove that she deprived him of his prior physical possession. Respondent also manifests that she is adopting as her comment to the present petition her Comment on the Motion for Reconsideration³⁷ which she filed with the CA.³⁸

Petitioner then filed his Reply.³⁹

³³ Id. at 37.

³⁴ Id. at 10-23.

³⁵ Id. at 14.

³⁶ Id. at 97-98.

³⁷ Id. at 99-103.

³⁸ Id. at 97.

³⁹ Id. at 183-191.

The Issues

- (1) Whether the CA erred in finding that petitioner failed to prove the identity of the subject land.
- (2) Whether the CA erred in considering the evidence submitted for the first time on appeal by respondent.

The Court's Ruling

The Court grants the petition.

The CA erred in considering the evidence submitted for the first time on appeal by respondent.

In granting respondent's Petition for Review, the CA erroneously considered the evidence submitted for the first time on appeal by the former. The CA discussed the serious discrepancies in the subject property and the land which respondent purchased from defendant Willy based clearly on the newly presented evidence of the latter, to wit:

“a. The Conditional Deed of Sale between respondent, Roi David Guzman and Jose Willy specifically pinpoints the location of the 3,000 square meters to be purchased by the respondent, which is 'besides Leticia Hontucan and Mr. Jose Willy's property' (See Conditional Deed of Sale, Annex 'A' of the complaint, page 1);

b. The tax declaration where this portion of 3,000 square meters to be purchased by respondent is covered by ARP No. 99-001-03537 x x x but in the Decision of the trial court, what was ordered to be vacated is the tax declaration covered by ARP No. 99-001-06218 (common exhibit of the parties and marked as Exhibit 'B' for plaintiff-respondent and Exhibit '4' f[o]r defendant-petitioner). This ARP No. 99-001-06218 cited in the Decision did not revise the ARP No. 99-001-03537 because the tax declaration that revised the ARP No. 99-001-03537 are ARP No. 99-001-04491 now in the name of Benjamin P. Peralta and ARP No. 99-001-04492 in the name of Jose Willy. *Plaintiff-respondent failed to submit these tax declarations as his evidence; hence, for the appreciation of this Honorable Appellate*

Court, petitioner is hereby attaching the certified xerox copies of ARP Nos. 99-001-03537; 99-001-03537; 99-001-0441 and 99-001-04492 as Annexes 'N', 'O' and 'P' respectively in the original copy of this petition;

c. The area where petitioner purchased a portion from Jose Willy derived from ARP No. 00-001-06695 (Annex '3' of Answer) and the exact location of this portion purchased by petitioner is located on the opposite side of the property of Jose Willy and Leticia Hontucan, which is separated by an existing road."⁴⁰ (Italics supplied.)

The Court agrees with petitioner when he pointed out that the CA anchored the assailed Decision on the ARPs *which were never submitted in evidence during the course of the proceedings before the courts below*;⁴¹ and that the ARPs were, in fact, submitted by respondent for the first time on appeal with the CA.⁴² As petitioner put it, the tax declarations submitted before the CA were neither reserved during the pre-trial conference nor attached in any of the pleadings submitted by respondent before the MCTC.⁴³ Respondent did not even adduce any explanation as to the reason for the nonproduction of the ARPs before the MCTC.

The appellate procedure dictates that a factual question may not be raised for the first time on appeal, and, as in the case, documents which form no part of the proofs before the CA will not be considered in disposing the issues of an action.⁴⁴ This rule applies whether the decision elevated for review originated from a regular court or an administrative agency or quasi-judicial body, and whether it was rendered in a civil case, a special proceeding, or a criminal case.⁴⁵ *In other words, piecemeal presentation of evidence is simply not in accord with orderly justice.*⁴⁶ Time and again, the Court has disallowed this as it would be offensive to the basic rule of fair play, justice, and due process.⁴⁷

⁴⁰ Id. at 31-32.

⁴¹ Id. at 17.

⁴² Id.

⁴³ Id.

⁴⁴ *Tan v. Commission on Elections*, 537 Phil. 510, 533 (2006), citing *Matugas v. Commission on Elections*, 465 Phil. 299, 312-313 (2004). Further citations omitted.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id. at 534, citing *Vda. De Gualberto v. Go*, 502 Phil. 250 (2005), further citing *Orosa v. Court of Appeals*, 386 Phil. 94 (2000).

The CA erred in finding that petitioner failed to prove the identity of the subject land. Petitioner was able to establish prior physical possession of the property.

The present case is an action for forcible entry. There is forcible entry when one is deprived of physical possession of land by means of force, intimidation, strategy, threat, or stealth. Thus, the three elements that must be alleged and proved for the forcible entry case to prosper are the following:

(a) that they have *prior physical possession* of the property; (b) that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and (c) that the action was filed within one (1) year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.⁴⁸

However, as to the third element, when the entry is through stealth, the one year period is counted from the time the plaintiff or legal possessor learned of the deprivation of the physical possession of the property.⁴⁹

In forcible entry cases, possession means nothing more than physical, actual or material possession or possession *de facto*, and not the one coming out or arising from ownership or possession *de jure*.⁵⁰ The issue is only prior physical possession, and not title.⁵¹

Thus, in *Pajuyo v. Court of Appeals*,⁵² the Court ruled that a party who can prove prior possession can recover such possession even against the owner himself, thus:

⁴⁸ *PLDT Co. v. Citi Appliance M.C. Corp.*, G.R. No. 214546, October 9, 2019.

⁴⁹ *Id.*, citing *Diaz v. Spouses Punzalan*, 783 Phil. 456, 462 (2016).

⁵⁰ *Id.*, citing *Spouses Tirona v. Alejo*, 419 Phil. 285, 299 (2001) and *Spouses Maninang v. Court of Appeals*, 373 Phil. 304, 309 (1993).

⁵¹ *Rhema International Livelihood Foundation, Inc. v. Hibix, Inc.*, G.R. Nos. 225353-54, August 28, 2019, citing *Rivera-Calingan v. Rivera*, 709 Phil. 583, 597 (2013).

⁵² 474 Phil. 557 (2004).

The only question that the courts must resolve in ejectment proceedings is who — is entitled to the physical possession of the premises, that is, to the possession *de facto* and not to the possession *de jure*. It does not even matter if a party's title to the property is questionable, or when both parties intruded into public land and their applications to own the land have yet to be approved by the proper government agency. Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession.

*Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to settle in an ejectment suit is the right to physical possession.*⁵³ (Italics supplied.)

Further, it is not required that there be an appreciable length of time of prior physical possession. In other words, even when prior physical possession is short, for as long as the prior physical possession is established, then recovery of possession under Rule 70 of the Rules of Court may be granted.⁵⁴

In determining whether petitioner is entitled to recover possession of the property which he is claiming on the basis of prior physical possession, the Court must first resolve the issue of whether petitioner was able to establish the identity of the subject property, *i.e.*, whether the property which he claims in the present case is the same as the property occupied by respondent.

Admittedly, the conditional deed of sale executed by defendant Willy in favor of petitioner described that the property subject thereof was covered by *ARP No. 99-001-03537*.⁵⁵ On the other hand, petitioner alleged in his complaint that the lot to which he was unduly deprived of physical possession was covered by *ARP No. 99-001-06218*. Notably, the MCTC ordered respondent to vacate the 3,000-square-meter portion of

⁵³ Id. at 579. Citations omitted.

⁵⁴ Id. at 592.

⁵⁵ *Rollo*, p. 39.

the subject property covered by *ARP No. 99-001-06218*. However, the previous complaint for forcible entry filed by defendant Willy against petitioner, albeit dismissed for failure to prosecute, indicated that what defendant Willy offered to sell to petitioner, *i.e.*, 300 square meters of defendant Willy's property, was covered by *ARP No. 99-001-06218*. Defendant Willy's complaint for forcible entry which forms part of the record states in part:

3. [Defendant Willy] is the actual possessor and owner of that real property with an area of FIVE THOUSAND SIX HUNDRED TWELVE (5,612) SQUARE METERS (6,896 as per actual survey), more or less described and covered by *ASSESSMENT OF REAL PROPERTY NO. 99-001-06218* and a Survey Plan which are hereto attached and made parts hereof as ANNEXES "A" AND "B" respectively;
4. Sometime in the year 2000, [petitioner], a "kompare" of plaintiff, expressed his interest to buy a portion of the subject property. Because of [petitioner]'s offer, [defendant Willy] replied that he can only sell an area of TWO HUNDRED (200) SQUARE METERS on the frontage portion or THREE HUNDRED (300) SQUARE METERS at the back portion thereof at the option of defendant for a fixed price of SIX HUNDRED THOUSAND (600,000) PESOS;
5. It was their express verbal agreement that after the full payment of the amount of 600,000.00 pesos, [petitioner] would make a choice which portion should be segregated for him such that if he wants the larger area [defendant Willy] would segregate THREE HUNDRED (300) SQUARE METERS for him at the back portion, or if he wants the frontage portion, [defendant Willy] would segregate an area of TWO HUNDRED (200) SQUARE METERS. After which, [defendant Willy] would execute a Deed of Sale for the eventual transfer of said portion to [petitioner]. Since both parties herein are "kompare", this agreement was not put into writing as they trust each other and the plaintiff never signed any document to this effect;
6. Sad to say, [petitioner] utterly failed to pay the agreed price up to this date contrary to his undertaking to pay it in cash and not on installment. [Defendant Willy] is, however, honest to admit that he received a measly amount of 200,000.00 from the [petitioner] sometime in 2000 as down payment. However, [petitioner] never paid the remaining amount up to this time;

7. In view of the [petitioner]'s failure to pay the contract price, he has not yet made a choice as to which portion and what area would be segregated for him by the [defendant Willy]. Further, [defendant Willy] never signed any deed of sale in favor of [petitioner] concerning the subject property because of [petitioner]'s failure to pay the entire consideration;
8. *Sometime in the third week of June 2006, however, [petitioner] took advantage of the absence of the [defendant Willy], entered and occupied the entire subject property by means of force, stealth, strategy and without the knowledge and consent of the latter;*
9. *While inside the property, [petitioner] built a perimeter fence made of barbed wire and constructed a shanty thereon. Immediately upon discovery of the incident, [defendant Willy] wrote a letter to the Municipal Mayor of Tuba, Benguet to inquire whether a fencing permit was issued to [petitioner]. The Municipal Engineer conducted an investigation and found out that [petitioner] has not secured a fencing permit in violation of the National Building Code of the Philippines. Copy of the [defendant Willy]'s letter and findings of the Municipal Engineer's Office of Tuba are hereto attached as Annexes "C" and "D" respectively;*
10. As a result of these illegal and unwarranted acts committed by [petitioner], [defendant Willy], who is a law abiding citizen, was unlawfully dispossessed, displaced from the subject property without due process of law;

x x x x (Italics supplied.)⁵⁶

It appears that defendant Willy was silent in his own complaint for forcible entry as to the execution of the conditional deed of sale in favor of petitioner. Still, it can be deduced from the record of the case that the property, per defendant Willy's complaint, that was entered into and occupied by the latter, is the same as the property being claimed by petitioner in the present forcible entry case. Thus, there is no doubt that the property to which petitioner seeks to regain physical possession is covered by ARP No. 99-001-06218.

Further, a cursory reading of the Amended Complaint shows that petitioner sufficiently alleged his prior physical possession over the subject property occupied by respondent in the following manner:

⁵⁶ Id. at 41-43.

6. That sometime in the year 2004, the PLAINTIFF was warned by adjoining neighbors in the said parcel of land that DEFENDANT JOSE WILLY again sold the property to other persons. To protect his rights and to further establish his possession over the said parcel of land, the PLAINTIFF was constrained to put a perimeter fence and shanty in the said property. PHOTOGRAPHS of the improvements introduced by the PLAINTIFF to the said parcel of land are x x x attached x x x;

x x x x

8. That in the year 2006, the PLAINTIFF was surprised when he learned that DEFENDANT JOSE WILLY filed a case against him for FORCIBLE ENTRY and DAMAGES which was docketed as Civil Case No. 263 and was heard before this same Honorable Court. Nonetheless, the Honorable Court can take judicial notice of the fact that the civil case was dismissed in the year 2006 for failure of DEFENDANT JOSE WILLY as plaintiff in that case to prosecute;
9. That from the time that earlier civil case was dismissed, the PLAINTIFF was in peaceful and actual possession of the said parcel of land which is the subject matter of this case;
10. That in fact, the PLAINTIFF was in peaceful and actual possession of the said parcel of land since the year 2001 or approximately eight (8) years now;
11. That on November 9, 2009, the PLAINTIFF learned from his caretaker that DEFENDANT JOSE WILLY without permission from the PLAINTIFF and in utter disregard of the PLAINTIFF's possession and ownership thereof, entered the said parcel of land through force, intimidation, strategy, and stealth together with a group of unknown number of persons to make measurements and excavations preparatory to the construction of a permanent structure;
12. The DEFENDANT JOSE WILLY has since then brought in construction materials and has put up a shanty of the said parcel of land over the protestation of the PLAINTIFF through his caretaker;⁵⁷

Petitioner's claim of prior physical possession over the subject

⁵⁷ Id. at 54-55.

property was duly strengthened by defendant Willy's forcible entry case filed against him which was, however, dismissed for failure of defendant Willy to prosecute. Specifically, in the MCTC Decision, the court *a quo* discussed petitioner's prior physical possession as follows:

While it might be true that defendant Caridad Butay was in possession of a valid Deed of Sale which granted her the right to enter the subject parcel of land, it was however proven by plaintiff that he was already situated in the subject parcel of land even before defendant Butay. This fact was admitted by defendant Willy in an earlier Forcible Entry case he filed against plaintiff. The claim by defendant Willy during the Preliminary Conference that he repossessed the subject parcel of land could not be considered by the Court as he was not able to present any proof that he indeed repossessed the property from plaintiff. On the other hand, plaintiff was able to show that the fence and shanty or gazebo he constructed on the subject parcel of land still existed at the time of the entry by defendants thereon.

X X X X

It must be noted however that out of the total 5,000 square meters originally owned by defendant Willy, he only sold a portion of 1,553 square meters to defendant Butay. Plaintiff only acquired 3,000 square meters. Since plaintiff had already delineated the area he was possessing, defendants could have easily taken possession of the 2,000 square meters which plaintiff did not buy. Unfortunately, it was on this 3,000 square meters which plaintiff possessed where defendant Butay erected her structure, thereby forcibly depriving plaintiff of his possession and occupation of the portion of 1,553 square meters of the subject parcel of land.⁵⁸

To reiterate, the CA relied on respondent's belatedly introduced evidence before the CA in finding that there was an actual discrepancy as to which parcel of land was actually being claimed by petitioner. However, other than the CA's finding as to such discrepancy, the CA simply ignored and did not specifically overturn the findings of the MCTC that: (1) defendant Willy admitted in the earlier forcible entry case that petitioner was already situated in the subject property even before respondent; and (2) defendant Willy claimed during the preliminary conference in the present case that he was able to repossess the subject property.⁵⁹ Defendant Willy's statements bolster the

⁵⁸ Id. at 70-71.

⁵⁹ Id. at 70.

conclusion that the identity of the property over which petitioner claims prior physical possession is established. Notably, the RTC found no reason to nullify the findings of the RTC and agreed with the MCTC that petitioner was in prior physical possession of the property.⁶⁰

It is also worthy to discuss that as mentioned in the MCTC Decision dated April 5, 2011, one of the arguments used by respondent in claiming that she is entitled to the physical possession of the property is that the conditional deed of sale executed by defendant Willy in favor of petitioner is defective since it was not signed by defendant Willy's wife and petitioner's signature was lacking; thus, it did not pass any rights to petitioner over the subject parcel of land. Premised on defendant Willy's ownership of the subject property, respondent argues that the tacking of possession applies to her. Specifically, the possession of her predecessor-in-interest who sold the lot to her should be tacked to her possession, thereby defeating the claim of prior possession of petitioner.⁶¹

However, the Court in *Nenita Quality Foods Corp. v. Galabo*⁶² (*Nenita Quality Foods Corp.*) ruled that the principle of tacking does not apply in determining who has prior physical possession as possession in forcible entry suit refers to physical possession only. Notably, the case involved a complaint for forcible entry with damages filed by therein respondents against petitioner Nenita Quality Foods Corporation. The Court explained:

To support its position, NQFC invokes the principle of tacking of possession, that is, when it bought Lot No. 102 from Santos on December 29, 2000, its possession is, by operation of law, tacked to that of Santos and even earlier, or at the time Donato acquired Lot No. 102 in 1948.

NQFC's reliance on this principle is misplaced. *True, the law allows a present possessor to tack his possession to that of his predecessor-in-interest to be deemed in possession of the property for the period required by law. Possession in this regard, however, pertains to possession de jure and the tacking is made for the purpose of completing the time required for acquiring or losing ownership through prescription. We reiterate – possession in forcible*

⁶⁰ Id. at 77.

⁶¹ Id. at 70.

⁶² 702 Phil. 506 (2013).

entry suits refers to nothing more than physical possession, not legal possession.⁶³ (*Italics supplied.*)

Without doubt, the Court's pronouncement in *Nenita Quality Foods Corp.* is that tacking applies in determining possession *de jure* but not physical possession which is the issue in the present forcible entry case.

As to the alleged defect of the conditional deed of sale, respondent cannot properly challenge its validity in the forcible entry case which proceeds independently of any claims of ownership.⁶⁴ Instead, the issue as to the validity of the conditional deed of sale executed by defendant Willy in favor of petitioner must be resolved in a separate and appropriate action.⁶⁵

All told, the MCTC and the RTC were correct in ruling in favor of petitioner—the plaintiff in the forcible entry case now before the Court.

The award of damages in favor of petitioner must be clarified and/or modified.

Notably, the MCTC ordered: (1) respondent to pay petitioner the amount of ₱5,000.00 as monthly rental starting from November 2009 until she finally vacates the subject property; (2) defendant Willy to pay the amount of ₱50,000.00 as moral damages and ₱50,000.00 as exemplary damages; and (3) respondent and defendant Willy to solidarily pay the amount of ₱20,000.00 as attorney's fees and costs of suit.⁶⁶

On appeal, the RTC, in its Decision dated February 21, 2013, modified the MCTC Decision as follows: “[e]xcept for the award of moral damages, costs and attorney's fees and costs [*sic*] are deleted and in lieu thereof[,] awards a nominal damage against defendant-appellant Jose Willy.”⁶⁷ The incoherent dispositive portion of the RTC Decision

⁶³ *Id.* at 519, citing Article 1138 of the Civil Code of the Philippines.

⁶⁴ See *De la Rosa v. Carlos*, 460 Phil. 367, 379 (2003), citing *Spouses Diu v. Ibjajan*, 379 Phil. 482 (2000).

⁶⁵ *Id.* at 380.

⁶⁶ *Rollo*, p. 72.

⁶⁷ *Id.* at 78.

gives rise to the question of whether the RTC intended to delete the award of reasonable rental and to award nominal damages only. The body of the RTC Decision is also wanting as to the issue of reasonable rental.

To do away with the confusion brought about by the incoherent dispositive portion of the RTC Decision, the Court now resolves the issue of whether petitioner is entitled to damages.

Following Section 17, Rule 70 of the Rules of Court and jurisprudence, the only damage that can be recovered in ejectment cases, other than attorney's fees and costs, is the fair rental value or the reasonable compensation for the use and occupation of the property.⁶⁸

The Court ruled in *Dumo v. Espinas*:⁶⁹

Lastly, we agree with the CA and the RTC that there is no basis for the MTC to award actual, moral and exemplary damages in view of the settled rule that in ejectment cases, the only damage that can be recovered is the fair rental value or the reasonable compensation for the use and occupation of the property. Considering that the only issue raised in ejectment is that of rightful possession, damages which could be recovered are those which the plaintiff could have sustained as a mere possessor, or those caused by the loss of the use and occupation of the property, and not the damages which he may have suffered but which have no direct relation to his loss of material possession. Although the MTC's order for the reimbursement to petitioners of their alleged lost earnings over the subject premises, which is a beach resort, could have been considered as compensation for their loss of the use and occupation of the property while it was in the possession of the respondents, records do not show any evidence to sustain the same. Thus, we find no error in the ruling of the RTC that the award for lost earnings has no evidentiary or factual basis; and in the decision of the CA affirming the same.⁷⁰

In the case, the Court finds that petitioner is not entitled to any kind of damages except for the reasonable rental for the use and occupation of his property by respondent.

⁶⁸ Section 17, Rule 70 of the Rules of Court. See also *Dumo v. Espinas*, 515 Phil. 685, 700-701 (2006), citing *C & S Fishfarm Corporation v. Court of Appeals*, 442 Phil. 279 (2002).

⁶⁹ *Dumo v. Espinas*, *id.*

⁷⁰ *Id.* at 700-701, citing *C & S Fishfarm Corporation v. Court of Appeals*, 442 Phil. 279 (2002).

As a rule, the courts “may fix the reasonable amount of rent, but must still base its action on the evidence adduced by the parties.”⁷¹ The plaintiff in an ejectment case has the burden to adduce evidence to prove the fair rental value or reasonable compensation for the leased property.⁷²

Regrettably, the MCTC made no findings as to how it arrived at the amount of ₱5,000.00 per month as reasonable rent.

Thus, the Court deems it proper to remand the case for further proceedings but only for the purpose of determining the amount of reasonable rent to be awarded to petitioner.⁷³

The reasonable rent to be awarded to petitioner shall earn legal interest at the rate of 6% *per annum* to be computed from the date of demand, *i.e.*, on November 19, 2009 when petitioner filed the complaint, until full payment.⁷⁴

Lastly, the Court sustains the MCTC's award of ₱20,000.00 as attorney's fees in favor of petitioner. This is considering that petitioner was constrained to litigate in order to protect his interest as a result of respondent's illegal entry on the subject property.⁷⁵ Under Section 17,

⁷¹ *Spouses Booc v. Five Star Marketing Co., Inc.*, 563 Phil. 368, 381 (2007), citing *Asian Transmission Corporation v. Canlubang Sugar Estates*, 457 Phil. 260, 289 (2003).

⁷² *Id.* at 380-381.

⁷³ See *Sps. Fahrenbach v. Pangilinan*, 815 Phil. 696 (2017).

⁷⁴ See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

⁷⁵ Article 2208 of Civil Code of the Philippines provides:

ARTICLE 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees

Rule 70 of the Rules of Court, it is within the competence and jurisdiction of the MCTC to award fees and costs in an ejectment case.⁷⁶ The attorney's fees shall earn legal interest at the rate of 6% *per annum* from the finality of this Decision until fully paid.⁷⁷

WHEREFORE, the petition is **GRANTED**. The Decision dated February 12, 2015 and the Resolution dated September 4, 2015 of the Court of Appeals in CA-G.R. SP No. 130611 are **REVERSED AND SET ASIDE**. Accordingly, the Court rules as follows:

- (1) The Decision dated February 21, 2013 and the Order dated June 11, 2013 of Branch 10, Regional Trial Court, La Trinidad, Benguet which affirmed with modification the Decision dated April 5, 2011 of 5th Municipal Circuit Trial Court, Tuba-Sablan, Benguet are **REINSTATED** with **MODIFICATION** in that all monetary awards are **DELETED** except for the attorney's fees in the amount of ₱20,000.00 which shall earn legal interest at the rate of 6% *per annum* from the finality of this Decision until fully paid;
- (2) The case is **REMANDED** to the court of origin for further proceedings to determine the amount of reasonable rent that must be paid to petitioner Roi Guzman David from November 19, 2009 up to the time respondent Caridad D. Butay vacated the premises; and
- (3) The monthly rental to be determined by the 5th Municipal Circuit Trial Court, Tuba-Sablan, Benguet shall earn interest at the rate of 6% *per annum*, to be computed from the date of demand, *i.e.*, on November 19, 2009, until full payment.

and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

⁷⁶ *Antioquia Dev't. Corp. v. Rabacal*, 694 Phil. 223, 238 (2012); *Spouses Fahrenbach v. Pangilinan*, 815 Phil. 696, 710 (2017).


⁷⁷ *Collao, Jr. v. Albania*, G.R. No. 228905, July 15, 2020, citing *Zaragoza v. Iloilo Santos Truckers, Inc.*, 811 Phil. 834, 841 (2017).

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


(On official leave)
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



ALEXANDER G. GESMUNDO
Chief Justice

