



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

MERCURIA B. MAGSI,
 Petitioner,

G.R. No. 262034

Present:

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

HEIRS OF IGNACIO A. LOPEZ,
JR., namely: DELIA DE
GUZMAN LOPEZ and
LORRAINE DE GUZMAN
LOPEZ, and RODOLFO
BARNACHEA, SR.,

Promulgated:

MAY 22 2024

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Respondents.

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DECISION

HERNANDO, J.:

Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, seeking to set aside the Decision² and the Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 156585, which reversed and set aside the Decision⁴ of the Regional Trial Court (RTC), Branch 5, Baguio City, in Civil

¹ *Rollo*, pp. 3–24.

² *Id.* at 104–115. The January 15, 2021 Decision in CA-G.R. SP No. 156585 was penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Florencio M. Mamauag, Jr. of the Eleventh Division, Court of Appeals, Manila.

³ *Id.* at 128–130. The July 22, 2021 Resolution in CA-G.R. SP No. 156585 was penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Florencio M. Mamauag, Jr. of the Former Eleventh Division, Court of Appeals, Manila.

⁴ *Id.* at 74–80. The June 22, 2018 Decision was penned by Presiding Judge Maria Ligaya V. Itliong-Rivera of Branch V, Regional Trial Court, Baguio City.

Case No. 8842-R. The RTC affirmed the Decision⁵ of the Municipal Trial Court in Cities (MTCC), Branch 3, Baguio City in Civil Case No. 14049.

The Factual Antecedents

On March 9, 2017, Mercuria B. Magsi (Magsi), represented by her daughter Maria Frances M. Mangaoang, filed a Complaint⁶ against the Heirs of Ignacio A. Lopez, Jr. (Ignacio), namely: Delia De Guzman and Lorraine De Guzman Lopez, and Rodolfo Barnachea, Sr. (Rodolfo) (collectively, respondents), for Forcible Entry and Damages docketed as Civil Case No. 14049, after failing to arrive at an amicable settlement with the respondents.⁷ In the Complaint, Magsi stated that she worked as an employee at the Department of Public Works and Highways (DPWH) in Baguio City from February 1964 until her retirement in 2004. During her employment with DPWH, she resided at the National Government Dormitory, Dormitory I, in Jungle Town, Engineers' Hill, Baguio City and became a member of the Engineers Hill Lotless Homeseekers Association, Inc. (Association).⁸

Magsi stated that sometime in 1969, Republic Act No. 5941 was passed, amending Republic Act No. 1361, granting the National Government the authority to sell cottages in Baguio City, including the lot on which subject property is located, as follows:

Sec. 3. [. . .] that every cottage and lot on which it is built including the furniture and equipment in Jungle Town and Engineer's Hill shall be sold at a price to be fixed by the committee on Appraisal payable in ten yearly installments, to the present lessee or occupant thereof who has continuously leased or occupied them for not less than three years prior to the date of the approval of this amendatory act, unless such lessee or occupant refuses to exercise the right herein granted [. . .].⁹

Magsi submitted her application on March 20, 1981. The Association referred her application to the Screening and Recommending Awards Committee for Lot No. 59, SWO-1-01039. After due proceedings, Magsi was awarded Lot No. 50 since she had been occupying the said lot and had built a *bodega* therein since 1981.¹⁰

In 1990, Magsi introduced several repairs on the *bodega* located in Lot No. 50. In 1991, it was rebuilt into a residential house after a major earthquake hit Baguio City. In 1993, Magsi declared her residential house/building for tax

⁵ *Id.* at 60–73. The February 12, 2018 Decision was penned by Judge Leody M. Opolinto of Branch 3, Municipal Trial Court in Cities, Baguio City.

⁶ *Id.* at 27–34.

⁷ *Id.* at 44.

⁸ *Id.* at 28.

⁹ *Id.*

¹⁰ *Id.* at 28–29.

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purposes. On the other hand, Lot No. 50 was earlier declared for tax purposes as early as 1990.¹¹ Magsi further narrated that one Ernesto A. Hernandez filed an application over a lot in Engineers' Hill, which led to an investigation conducted by the Land Management Services of the Department of Environment and Natural Resources (DENR). However, Ernesto's application was denied since the lot application encroached upon Lot No. 50.¹²

Magsi averred that she often traveled to the United States but she always made it a point to visit Lot No. 50. She also instructed her children to handle the processing of the award and titling of the lot, but some of her children got married and moved out, leaving only Magsi and her two younger children as occupants of the lot. According to her, she had been in possession of Lot No. 50 since 1981, while awaiting for the issuance of the title under Republic Act No. 1361, as amended by Republic Act No. 5941.¹³

Magsi disclosed that sometime in 2016, Rodolfo, acting on behalf of the Heirs of Lopez, Jr., threatened her children who were occupying the property of a potential demolition of their home or a legal action if they did not vacate the property. In October of that same year, while Magsi's children were on vacation, respondents enclosed the property with G.I. sheets, wood, and interlink fences, which blocked the children's access to the property. Respondents also put up a "NO TRESPASSING" sign on the door of the house, nailed the main door, and stationed dogs in the property.¹⁴ Magsi stated that they have not been able to return to the property despite their personal belongings, documents, and supplies still remaining in the house.¹⁵

Lastly, Magsi claimed that respondents' title over the subject property was secured through fraud. She maintained that she has been the actual occupant of Lot No. 50 and is the only owner through the issuance of the Award and Certificate of Title as per Republic Act No. 1361, as amended by Republic Act No. 5941.¹⁶

In their Answer,¹⁷ respondents averred that as the representative of the Heirs of Lopez, Jr., Rodolfo only acted accordingly to protect his principal's interest. While Rodolfo admitted that he notified Magsi about the demolition of her illegal structure, he explained that it was the City Government of Baguio who recommended its demolition. He also admitted to placing the "NO

¹¹ *Id.* at 29.

¹² *Id.*

¹³ *Id.* at 30.

¹⁴ *Id.* at 40-41.

¹⁵ *Id.* at 30-31.

¹⁶ *Id.* at 31.

¹⁷ *Id.* at 56-58.

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TRESSPASSING” sign to protect the property from Magsi, who is a trespasser on Lot No. 49, which was titled in favor of the Heirs of Lopez, Jr.¹⁸

Respondents mentioned that the lot occupied and applied for by Magsi is Lot No. 50, while the lot of the Heirs of Lopez, Jr. is Lot No. 49. They claimed that Magsi never occupied Lot No. 49 since she and her family stayed in Lot No. 50. However, Magsi surreptitiously erected a shanty on respondents’ property and had it rented by tenants without any building permit. This was precisely why the City Government of Baguio recommended its demolition as early as October 8, 1998.¹⁹

During the preliminary conference, the parties agreed on the following stipulations:

1. The subject property was previously owned by the National Government and covered by Republic Act No. 1361.
2. The lot applied for by [Magsi] is Lot No. 50.
3. Lot No. 49 is already titled in the name of Ignacio Lopez, Jr.
4. The property sought to be recovered by [Magsi] is inside the titled property of the [Heirs of Lopez] as far as the metes and bounds as described in the title are concerned.²⁰

Ruling of the Municipal Trial Court in Cities (MTCC)

In its Decision²¹ dated February 12, 2018, the MTCC ruled in favor of Magsi. The dispositive portion of the decision states:

WHEREFORE, with the foregoing, judgment is hereby rendered in favor of [petitioner] MERCURIA B. MAGSI and ordering [respondents] HEIRS OF IGNACIO LOPEZ, namely, Delia De Guzman Lopez and Lorraine De Guzman Lopez, and RODOLFO BARNACHEA, including all persons acting for and in behalf of them, to surrender possession of the subject property to the plaintiff.

The [respondents] shall also pay jointly and severally the [petitioner] the sums of [PHP] 20,000.00 and [PHP] 5,903.55 as reimbursements for attorney’s fees and filing fees, respectively.

Costs against the [respondents].

SO ORDERED.²² (Emphasis in the original)

Aggrieved, respondents filed an appeal before the RTC.

¹⁸ *Id.* at 56.

¹⁹ *Id.* at 57.

²⁰ *CA rollo*, p. 38.

²¹ *Rollo*, pp. 60–73.

²² *Id.* at 131.

Ruling of the Regional Trial Court

In its Decision²³ dated June 22, 2018, the RTC affirmed the findings of the MTCC.

WHEREFORE, premises considered, the assailed **DECISION** dated February 12, 2018 rendered by the Municipal Trial Court in Cities is hereby **AFFIRMED in toto**.

SO ORDERED.²⁴ (Emphasis in the original)

Undeterred, respondents filed an appeal with the CA and both parties filed their respective memoranda.²⁵

Ruling of the Court of Appeals

In its Decision²⁶ dated January 15, 2021, the CA reversed the findings of the lower courts.

WHEREFORE, the foregoing considered, the present Petition for Review is **GRANTED**. The Decision dated 22 June 2018 of the Regional Trial Court, First Judicial Region, Branch 5, Baguio City in Civil Case No. 8842-R is **REVERSED** and **SET ASIDE**.

Accordingly, Mercuria B. Magsi's Complaint for Forcible Entry is **DISMISSED** for lack of merit.

SO ORDERED.²⁷ (Emphasis in the original)

The CA held that as between the parties, the Heirs of Lopez, Jr. have a better right in possession *de facto* over the subject property. It ruled that as holders of a Torrens title over Lot No. 49, respondents have a stronger claim to possession as a part of ownership. It also noted that the parties already stipulated that the subject property was inside Lot No. 49. Thus, based on the parties' claim and defense of ownership, the CA deemed it necessary to settle who between the two parties have a better right to possess the subject lot as an attribute of ownership. On this regard, the CA held that while Magsi proved that she had a prior physical possession over the subject property, such property is on the portion of the titled lot in the name of Ignacio. When Ignacio bought the property from the government and had the title registered in his name, he became the constructive possessor of the entire Lot No. 49.²⁸

²³ *Id.* at 74–80.

²⁴ *Id.* at 80.

²⁵ *Id.* at 81–90; 91–103.

²⁶ *Id.* at 104–115.

²⁷ *Id.* at 114.

²⁸ *Id.* at 110.

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The CA emphasized that possession could be acquired through juridical acts, such as the execution and registration of public instruments, which in this instance, involved the deed of absolute sale in favor of Ignacio. The CA ruled that Magsi's claim to possession based on her physical occupation and the pending sale from the government could not supersede Ignacio's titled ownership and the resulting constructive possession of the lot. Thus, the CA declared the Heirs of Lopez, Jr. as the rightful owners of the property who are entitled to its possession.²⁹

Magsi filed a Motion for Reconsideration³⁰ but the CA denied the same.

Hence, the present petition. Magsi argues that the CA erred in applying the concept of constructive possession as an attribute of ownership over a property that has long been adversely possessed by another. She further contends that the CA misapplied the concept of constructive possession enunciated in *Spouses Orenicia v. De Ranin*³¹ and *Mangaser v. Ugay*,³² whose facts are entirely different from the present case.³³

In their Comment,³⁴ respondents argue that Magsi has no right to recover possession over Lot No. 49 since the evidence adduced by the latter all points to Lot No. 50. Further, they maintain that the CA correctly determined the ownership over the subject property to properly determine who has a better right to possession since the right to possess could not be established without first resolving the issue of ownership.³⁵

Issue

Is Magsi entitled to possession over the subject property?

Our Ruling

The petition is meritorious.

An action for forcible entry is governed by Rule 70, Section 1 of the Rules of Court, which provides:

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,

²⁹ *Id.* at 111–114.

³⁰ *Id.* at 116–126.

³¹ 792 Phil. 697 (2016) [Per J. Reyes, Third Division].

³² 749 Phil. 372 (2014) [Per J. Mendoza, Second Division].

³³ *Rollo*, p. 13.

³⁴ *Id.* at 165–174.

³⁵ *Id.* at 166–167.

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.

Thus, the following elements must be alleged and proved: (1) that the plaintiff had prior physical possession of the property; (2) that the plaintiff was deprived of possession either by force, intimidation, threat, strategy or stealth; and (3) that the action was filed within one year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property.³⁶ The main point of contention is whether Magsi was able to prove that she had a prior physical possession over the subject property.

We rule in the affirmative.

It is undisputed that Magsi occupied and built a residential house on Lot No. 50 as early as 1991. In 1993, she declared her residential house/building for tax purposes. Meanwhile, based on OCT No. P-3097 of the Register of Deeds of Baguio City, Lot No. 49 was awarded to Ignacio through a Special Patent pursuant to Republic Act No. 1361 on July 27, 2004. Notably, the parties stipulated that the property sought to be recovered by Magsi encroaches upon Lot No. 49, which is titled in the name of Ignacio. Such fact is also supported by the sketch plan of land prepared by Geodetic Engineer Bobby M. Villena.³⁷ Thus, while the CA correctly held that possession can be acquired through juridical acts, i.e., the execution and registration of the deed of absolute sale in favor of Ignacio, Magsi's prior physical possession since 1991 has been well-established and even admitted by respondents. While Magsi did not have prior physical possession over the entire Lot No. 49, the subject property whose possession Magsi seeks to recover is inside Lot No. 49. Therefore, as between Magsi and the respondents, Magsi sufficiently proved that she had a prior physical possession of the subject property.

As correctly pointed out by Magsi, this case is in stark contrast with the factual milieu in the cases of *Mangaser* and *Spouses Orenzia*

³⁶ *Philippine Long Distance Telephone Company v. Citi Appliance M.C. Corp.*, 864 Phil. 899, 921 (2019) [Per J. Leonen], citing *Mangaser v. Ugay*, 749 Phil. 372, 381 (2014) [Per J. Mendoza, Second Division].

³⁷ *Rollo*, p. 42.

In *Spouses Orenca*,³⁸ the plaintiff filed a complaint for unlawful detainer for the failure of the defendants (who were tenants) to pay rent and their refusal to vacate the property. The plaintiff submitted its transfer certificate of title over the subject property to prove a better right of possession.³⁹ Meanwhile, the defendants failed to present any substantial evidence to counter the plaintiff's claim to ownership and possession.⁴⁰ The Court ruled in favor of the plaintiff and held that the holder of a Torrens title is the rightful owner of the property thereby covered and is entitled to its possession.⁴¹

In *Mangaser*,⁴² the plaintiff filed a complaint for forcible entry and presented an original certificate of title issued in 1987 and tax declarations dated 1995 onwards to prove prior physical possession upon discovering that the defendant surreptitiously constructed a residential house on a portion of his land without his consent sometime in 2006. On the other hand, the defendant's claim of possession anchored on the fact that he had resided in the area since birth, cultivated the land, and constructed a dwelling as early as March 2006.⁴³ The Court ruled in favor of the plaintiff. It held that the plaintiff acquired possession of the subject property through a juridical act, specifically, through the issuance of a free patent under Commonwealth Act No. 141 and its subsequent registration with the register of deeds in 1987.⁴⁴

In both cases, the plaintiffs, who filed an action for forcible entry/unlawful detainer against the defendants, held the title to the property **and** proved their prior possession over the subject property sought to be recovered. In the case at hand, while respondents are the holders of a Torrens title over Lot No. 49, they only became constructive possessors of the lot when it was issued sometime in 2004. It is Magsi who has had prior possession over the subject property which she built in 1991, which is inside Lot No. 49.

It must be stressed that in actions for forcible entry, the only issue is the prior material possession (possession *de facto*) of real property and not ownership (possession *de jure*).⁴⁵ Thus, courts should base their decision on who had a prior physical possession of the property under litigation.⁴⁶ Moreover, it must be stressed that Magsi, though not the registered owner of

³⁸ 792 Phil. 697 (2016) [Per J. Reyes, Third Division].

³⁹ *Id.* at 700.

⁴⁰ *Id.* at 706.

⁴¹ *Id.*

⁴² 749 Phil. 372 (2014) [Per J. Mendoza, Second Division].

⁴³ *Id.* at 375–376.

⁴⁴ *Id.* at 384.

⁴⁵ *Esperal v. Trompeta-Esperal*, 885 Phil. 304, 315 (2020) [Per J. Inting, Second Division], citing *German Management and Services, Inc. v. Court of Appeals*, 258 Phil. 289, 293 (1989) [Per C.J. Fernan, Third Division].

⁴⁶ *Madayag v. Madayag*, 868 Phil. 758, 767 (2020) [Per J. Reyes, J., Jr., First Division], citing *Muñoz v. Atty. Yabut, Jr.*, 665 Phil. 488, 517 (2011) [Per J. Leonardo-De Castro, First Division].

Lot No. 49, cannot be ousted by force from the subject property which encroaches upon Lot No. 49. As held in *Esperal v. Trompeta-Esperal*.⁴⁷

Regardless of the actual condition of the title to the property, a person in possession cannot be ejected by force, violence or terror, not even by the owners. Assuming arguendo that herein respondents are the real owners of the subject property, they had no right to take the law into their own hands and summarily or forcibly eject petitioner's tenants from the subject property. **Their employment of illegal means to eject petitioner by force in entering the subject property by destroying the locks using [a] bolt cutter, replacing the locks, and prohibiting the tenants to enter therein made them liable for forcible entry since prior possession was established by petitioner.**⁴⁸ (Emphasis supplied. Citations omitted)

Further, in *Heirs of Laurora v. Sterling Technopark III*,⁴⁹ it was held that:

Notwithstanding the actual condition of the title to the property, a person in possession cannot be ejected by force, violence or terror - not even by the owners. . . .

....

Verily, even if petitioners were mere usurpers of the land owned by respondents, still they are entitled to remain on it until they are lawfully ejected therefrom. Under appropriate circumstances, respondents may file, other than an ejection suit, an *accion publiciana* . . . or an *accion reivindicatoria*. . . .⁵⁰ (Emphasis supplied. Citations omitted)

All told, Magsi sufficiently proved all the elements for an action of forcible entry to prosper: (1) that she had a prior physical possession of the subject property since 1991, (2) that respondents entered the property through force, installed fences and a "NO TRESPASSING" sign, and took possession of the property in 2016; and (3) that the action was filed within one year from the time Magsi was deprived of physical possession over the subject property.

ACCORDINGLY, the present petition is **GRANTED**. The Decision dated January 15, 2021 and the Resolution dated July 22, 2021 of the Court of Appeals in CA-G.R. SP No. 156585 are **REVERSED** and **SET ASIDE**. The Decision dated February 12, 2018, of the Municipal Trial Court in Cities, Branch 3, Baguio City in Civil Case No. 14049 is **REINSTATED**.

⁴⁷ 885 Phil. 304 (2020) [Per J. Inting, Second Division].


⁴⁸ *Id.* at 316.

⁴⁹ *Heirs of Laurora v. Sterling Technopark III*, 449 Phil. 181 (2003) [Per J. Panganiban, Third Division].

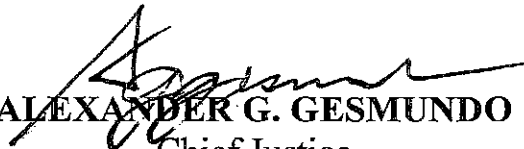
⁵⁰ *Id.* at 187-188.

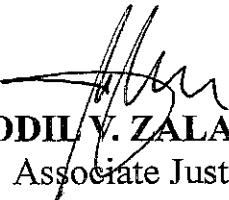
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SO ORDERED.

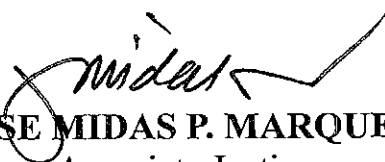

RAMON PAUL L. HERNANDO
Associate Justice
Working Chairperson

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

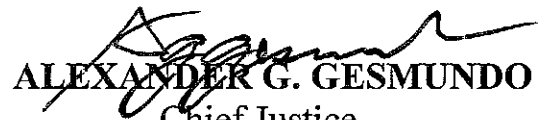

RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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

