



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 10, 2022, which reads as follows:

“UDK No. 17532 (*Spouses Jerzon L. Juarez and Nerisa Juarez v. RS Villa and Associates*). – After a judicious study of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the February 23, 2021 Decision¹ and October 6, 2021 Resolution² of the Court of Appeals (CA), Cebu City in CA-G.R. SP No. 10999 for the failure of spouses Jerzon (Jerzon) and Nerisa Juarez (petitioners) to show that the CA committed any reversible error in upholding their ejectment from subject properties specifically identified as Lots 40 and 42, Block 12, both located at Brgy. Felisa, Bacolod City and covered by TCT No. T-092-2014003433 and TCT No. T-092-2014003434 respectively.

As correctly pointed out by the CA, respondent RS Villa and Associates (respondent) successfully discharged the burden of proof that the petitioners are in possession of the lots subject of this case. The presence of petitioner Jerzon in the premises on the morning of October 13, 2014 when the demand letter was served by Elizabeth Montinola-Sian and Barangay Tanod Roberto Santibanez (Brgy. Tanod Santibanez) negated the petitioners’ claim that they already vacated the subject lots in 2008.³ The accounts of the respondent witnesses, Cristina Redel, a former Purok President of Purok Totong, Brgy. Tanod Santibanez and Richard Padilla who testified that the petitioners have built a house and a structure on the lots in question⁴ are positive testimonial evidence that outweighed the mere denial of petitioners. Given that the constructive possession of the lots in the suit by petitioners have been established; they are considered real parties-in-interest in this case.

The person who has a Torrens title over a land is entitled to possession thereof⁵ to the exclusion of others. The owner who is deprived of possession of a property has the right of action to recover the same from the holder and possessor of the thing through a proper judicial remedy. Once he chooses

¹ *Rollo*, pp. 17-31; penned by Associate Justice Bautista G. Corpin, Jr., with Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga, concurring.

² *Id.* at 33-34.

³ *Id.* at 24.

⁴ *Id.* at 20.

⁵ *Javelosa v. CA*, 333 Phil 331, 343 (1996).

what action to file, the plaintiff is required to satisfy the conditions necessary for such action to prosper.⁶ Here, the respondent, whose ownership of the subject lots is not contested, chose to file an unlawful detainer case.

A complaint for unlawful detainer sufficiently alleges a cause of action if it recites the following: (1) the defendant's initial possession of the property was lawful, either by contract with or by tolerance of the plaintiff; (2) eventually, such possession became illegal upon the plaintiff's notice to the defendant of the termination of the latter's right of possession; (3) thereafter, the defendant remained in possession and deprived the plaintiff of the enjoyment of the property; and (4) the plaintiff instituted the complaint for ejectment within one (1) year from the last demand to vacate the property.⁷

In an unlawful detainer case grounded on tolerance, the plaintiff must clearly allege that such tolerance was present right at the beginning of defendant's possession of the subject property. Jurisprudence instructs that in an unlawful detainer complaint based on tolerance, it must be shown that: (a) tolerance must be present right at the inception of the possession; and (b) there are overt acts indicative of such tolerance.⁸

To establish its possessory right over the subject properties, respondent RS Villa pleaded the following key jurisdictional elements constitutive of an unlawful detainer case: (a) Petitioners occupied the subject properties by mere tolerance. Prior to the purchase of the subject lots by respondent from Bank of the Philippine Islands, petitioners were already occupants thereof by mere tolerance of the latter bank. During the processing of the transfer and registration of the entire land in the name of respondent, it continued to tolerate the presence of the petitioners and a number of families staying on the subject property;⁹ (b) When respondent finally decided to use the subject lots after having been registered in their name under TCT No. T-092-2014003433 and TCT No. T-092-2014003434, it demanded petitioners to vacate the premises and surrender possession of the said properties but petitioners failed to vacate the subject properties despite demands — the Final Demand Letter was tendered to petitioner Jerzon on October 13, 2014;¹⁰ (c) Without legal justification, petitioners refused to vacate the premises;¹¹ and (d) The complaint for unlawful detainer was filed within the one (1)-year period or on December 8, 2014 from the last demand to vacate.¹²

Accordingly, the respondent has substantially proven its right of possession over the subject property.

⁶ *Suarez v. Sps. Emboy*, 729 Phil. 315, 329 (2014).

⁷ *Diaz v. Spouses Punzalan*, 783 Phil. 456, 461 (2016).

⁸ *Marquez v. Andres-Vergara*, G.R. No. 229818, February 3, 2020.

⁹ *Rollo*, p. 53.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 30.

IN VIEW OF THE FOREGOING, the instant petition is **DENIED**. The February 23, 2021 Decision and October 6, 2021 Resolution of the Court of Appeals, Cebu City in CA-G.R. SP No. 10999 are **AFFIRMED**.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
10/11/22

Atty. Solomon A. Lobrido, Jr.
Counsel for Petitioner
Unit 1-J G/F Metrodome Building
Araneta St., 6100 Bacolod City

COURT OF APPEALS
CA G.R. CEB SP No. 10999
6000 Cebu City

Atty. Victorio Torrecampo, Jr.
Counsel for Respondent
Rm. 207 Lee U Building, Araneta St.
6100 Bacolod City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 49, 6100 Bacolod City

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