



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated August 31, 2022 which reads as follows:

“G.R. No. 257979 (Johnny Yu a.k.a. Johnny Yu Cornel, *Petitioner v. Florisa D. Palandito, Respondent*). – This Court **NOTES** the Comment dated May 3, 2021 filed by respondent Florisa D. Palandito, and resolves the Petition for *Certiorari*¹ under Rule 65 of the Rules of Court seeking to reverse and set aside the Decision dated October 21, 2019 and the Resolution² dated January 27, 2021 of the Court of Appeals in CA-G.R. SP No. 149600. The Court of Appeals earlier sustained the Decision³ dated December 22, 2016 of the Regional Trial Court, Branch 5, Baguio City, which, in turn, affirmed the Decision⁴ dated November 16, 2015 of the Municipal Trial Court in Cities, Branch 4, Baguio City, ordering petitioner Johnny Yu (*Yu*) to vacate the premises, having been found to have forcibly entered therein, in prejudice to the possessory rights of respondent Florisa D. Palandito (*Palandito*).

The instant case originated from a Complaint⁵ for forcible entry dated June 11, 2014 filed by Palandito against Yu before the Municipal Trial Court in Cities. Palandito alleged that she is the transferee of a 1,500 square meter real property situated along Marcos Highway, Baguio City (*subject property*). The subject property was previously owned by Felicidad Rimando (*Rimando*), now deceased, who transferred it to Rebecca Paraguas (*Paraguas*) on April 25, 1987. The subject property was subsequently transferred by Paraguas to Palandito *via* a Deed of Assignment of Rights/Waiver on April 30, 2013.⁶

Within the subject property is an old building which suffered structural damage during the 1990 earthquake and was condemned for demolition. In the meantime, several individuals entered the premises and used the building for commercial purposes, operating a junkshop, an auto repair shop, and a gravel and sand business, among others.⁷

¹ *Rollo*, pp. 5–35.

² *Id.* at 36–39. The Resolution dated January 27, 2021 was penned by Associate Justice Maria Filomena D. Singh (now a member of this Court), with Associate Justices Elihu A. Ybañez and Germano Francisco D. Legaspi, concurring.

³ *Id.* at 49–54. Penned by Presiding Judge Maria Ligaya V. Itliong-Rivera.

⁴ *Id.* at 40–48. Penned by Presiding Judge Maria Clarita Casuga-Tabin.

⁵ *Id.* at 55–66.

⁶ *Id.* at 56.

⁷ *Id.*

Upon transfer of the subject property to Palandito, she sought permission from the Baguio City Mayor's Office to finally demolish the condemned building and prepare it for the eventual construction of another commercial building. On March 17, 2014, the City Building and Architect's Office (*CBAO*) of the Mayor's Office acted on her request and issued Demolition Order No. 3-007, series of 2014.⁸

Lacking funds to pursue the demolition, Palandito was referred to Yu who readily offered her a loan on the condition that he would be allowed to rent a space in the new building once it was constructed. Soon after their meeting, Palandito hired several laborers to commence the demolition of the building.⁹

In January 2014, several armed individuals forcibly entered the subject property and blocked the entrance to the building. The incident resulted in the filing of a criminal case against one of Palandito's employees for grave coercion.¹⁰

On April 16, 2014, shortly after the resumption of the demolition, a similar incident occurred, as several armed individuals once again entered the subject property and constructed shanties inside the building. To Palandito's surprise, she learned that the individuals entering the subject property were working under the instruction of Yu, who likewise refused to leave the premises, having built several shanties inside the building. For their incessant refusal to vacate the premises, Palandito was constrained to file the instant complaint.¹¹

In his Answer, Yu denied Palandito's allegations. He countered that as a businessman, he purchased the subject property from Maria Teresa Dizon-Payla (*Payla*). He further claimed that the subject property originated from Lydia Dizon, who executed an Affidavit of Sole Adjudication with Simultaneous Waiver of Rights to Payla, as her sole surviving heir. As the owner of the subject property, Payla sold the same to Yu.¹²

On November 16, 2015, the Municipal Trial Court in Cities rendered a Decision¹³ in favor of Palandito, the dispositive portion of which reads:

WHEREFORE, the Court[,] finding for the Plaintiff [Palandito][,]
hereby orders:

⁸ *Id.*

⁹ *Id.* at 57.

¹⁰ *Id.*

¹¹ *Id.* at 58-60.

¹² *Id.* at 41. Municipal Trial Court in Cities Decision dated November 16, 2015.

¹³ *Id.* at 40-48. Penned by Presiding Judge Maria Clarita Casuga-Tabin.

1. Defendant [Yu] and those acting under his authority, to vacate the premises of the condemned building previously occupied by Plaintiff and to permanently cease and desist from further committing acts of preventing Plaintiff access to her property and to remove the barricade he has erected on the entrance to Plaintiff's property;
2. Defendant and anyone acting upon his orders to turn over possession of the subject property peacefully to Plaintiff and to perpetually refrain from going to subject property without Plaintiff's permission;
3. Defendant to pay ₱5,000.00 per month as rental computed from judicial demand until Defendant shall have vacated the subject property; and
4. Defendant to pay Attorney's fees in the amount of ₱20,000.00 and to pay the cost of the suit.

SO ORDERED.¹⁴

The Municipal Trial Court in Cities held that the documentary and testimonial evidence presented by Palandito to demonstrate prior physical possession preponderates in her favor. Thus, it was convinced that upon the execution of the Deed of Assignment of Rights/Waiver in her favor, Palandito entered the subject property and caused the approval of the demolition of the old building erected thereon. Despite entering into a loan agreement with Yu in good faith, the latter instructed several armed individuals to enter the property on two separate occasions, as proven by the criminal information charging Yu for grave coercion.¹⁵

On appeal to the Regional Trial Court, the Municipal Trial Court in Cities' ruling was affirmed in a Decision¹⁶ dated December 22, 2016, the decretal portion of which reads:

WHEREFORE, the assailed Decision dated November 16, 2015 rendered by the Municipal Trial Court in Cities, Branch 4, Baguio City, is hereby **AFFIRMED** in toto.

SO ORDERED.¹⁷

In affirming the Decision of the Municipal Trial Court in Cities, the Regional Trial Court agreed that Palandito sufficiently alleged the jurisdictional requirements necessary in a case for forcible entry and established, by a preponderance of evidence, prior physical possession in her favor.¹⁸ It likewise rejected Yu's assertion of ownership over the subject property, as the very issue in the case was one of possession.¹⁹

¹⁴ *Id.* at 48.

¹⁵ *Id.* at 45-46.

¹⁶ *Id.* at 49-54.

¹⁷ *Id.* at 54.

¹⁸ *Id.* at 53.

¹⁹ *Id.* at 54.

Undeterred, Yu elevated the case to the Court of Appeals by way of a Petition for Review under Rule 42 of the Rules of Court.

In a Decision dated October 21, 2019, the Court of Appeals affirmed the rulings of the Regional Trial Court and the Municipal Trial Court in Citites. It reiterated that it was bound by the factual findings of the lower courts, unless there was palpable error, which was absent in this case. Succinctly, upon proving her prior possession by a preponderance of evidence, Palandito was likewise able to prove that she was dispossessed of the subject property by Yu and his henchmen through force, intimidation, threat, strategy, and stealth.²⁰

Yu sought reconsideration, but the same was denied in a Resolution²¹ dated January 27, 2021.

Hence, this petition.

The issue for this Court's resolution is whether the Court of Appeals acted with grave abuse of discretion and committed reversible error in affirming the findings of the Municipal Trial Court in Cities and the Regional Trial Court.²²

The petition lacks merit.

To start with, this Court cannot disregard the overwhelming amount of procedural defects of the instant petition that warrants its outright dismissal. As borne by the records, the petition suffers the following infirmities, to wit: (1) lack of a statement of material date of receipt of the assailed Court of Appeals Decision, as well as the date of the filing of petitioner's motion for reconsideration to the Court of Appeals and when the notice of denial was received; (2) failure to accompany the petition with a certified true copy of the assailed Court of Appeals Decision dated October 21, 2019; (3) failure to attach the required number of duplicate copies of the petition; (4) lack of proof of service to the Court of Appeals; and (5) insufficient allegation in the verification that the pleading was not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation, pursuant to Section 4,²³ Rule 7 of the 2019 Amendments to the 1997 Rules of Civil Procedure (A.M. No. 2019-10-20-SC).

²⁰ *Id.* at 52.

²¹ *Id.* at 36-39.

²² *Id.* at 6.

²³ Section 4. *Verification.* — Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified. A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

x x x x

(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

x x x x

As the writ of *certiorari* is a prerogative writ, it is never demanded as a matter of right, but only issued in the exercise of judicial discretion. “[He/she] who seeks a writ of *certiorari* must apply for it only in the manner and strictly in accordance with the provisions of the law and the Rules.”²⁴ This Court cannot overemphasize the importance of procedural rules in adjudicating disputes. After all, such rules “are not intended to hamper litigants or complicate litigation, but, indeed, to provide for a system under which suitors may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge.”²⁵

As the petition manifestly fails on procedural grounds, its substantive merits fare no better.

Foremost is this Court’s observation that petitioner’s arguments are anchored on the appreciation of the factual antecedents of this case, primarily on whether respondent had sufficiently alleged her prior possession of the subject property. Time and again, this Court has declared that it is not a trier of facts, more so in the consideration of the extraordinary writ of *certiorari*, where neither questions of fact nor even of law are entertained.²⁶ Damning to petitioner’s cause is the fact that the Court of Appeals maintained the factual findings of the Regional Trial Court and the Municipal Trial Court in Cities in ruling in favor of respondent. Inarguably, the factual findings of the trial court, especially when affirmed by the appellate court, are held binding on this Court and are entitled the utmost respect.²⁷ In the same vein, the remedy of *certiorari* is proper only for questions of lack or excess of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.²⁸ Grave abuse of discretion is defined, thus:

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.

Grave abuse of discretion refers not merely to palpable errors of jurisdiction; or to violations of the Constitution, the law and

²⁴ *MTM Garment Mfg., Inc. v. Court of Appeals*, 499 Phil. 52, 62-63 (2005) [J. Quisumbing, First Division].

²⁵ *Santos v. Court of Appeals*, 275 Phil. 894, 898 (1991) [J. Cruz, First Division].

²⁶ *Sime Darby Pilipinas, Inc. v. Deputy Administrator Magsalin*, 259 Phil. 658, 664 (1989) [J. Feliciano, Third Division].

²⁷ *Garcia v. Court of Appeals*, 441 Phil. 323, 332 (2002) [J. Quisumbing, Second Division].

²⁸ RULES OF COURT, RULE 65, SEC. 1.

jurisprudence. It refers also to cases in which, for various reasons, there has been a gross misapprehension of facts.²⁹ (Citations omitted)

Materially, mere abuse of discretion is insufficient. Rather, there must be a showing of *grave* abuse of discretion as when the power is exercised in an “arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.”³⁰

In ascribing grave abuse of discretion on the part of the Court of Appeals, petitioner is of the view that the complaint filed by respondent in the Municipal Trial Court in Cities was fatally defective, as it failed to allege that respondent and Paraguas, who transferred the property to the latter, was in actual prior possession of the subject property.³¹ Petitioner further insists that respondent took the law into her hands by implementing upon herself a demolition order and making it appear that she was in possession of the subject property.³² On the other hand, petitioner raises that he was widely known in the business community. As such, he had no reason to sacrifice his good will by destroying his name due to the action filed against him.³³

This Court is not persuaded.

It bears emphasis that actions for forcible entry contemplate ejectment proceedings with the recovery of physical or material possession as its main concern. In *Pajuyo v. Court of Appeals*,³⁴ this Court established that the basic policy in summary actions of forcible entry and unlawful detainer is to “prevent breach of the peace and criminal disorder and to compel the party out of possession to respect and resort to the law alone and to obtain what [he/she] claims is [his/hers].”³⁵ It is well settled that in ejectment proceedings, jurisdiction is conferred by examining the allegations in the complaint and the character of the relief sought.³⁶

To be specific, the institution of forcible entry cases is embodied in Section 1, Rule 70 of the Rules of Court:

Sec. 1. *Who May Institute Proceedings, and When.* — Subject to the provisions of the next succeeding section, **a person deprived of the**

²⁹ *United Coconut Planters Bank v. Looyuko*, 560 Phil. 581, 591–592 (2007) [J. Austria-Martinez, Third Division].

³⁰ *Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO) v. National Labor Relations Commission*, 377 Phil. 268, 273 (1999) [J. Ynares-Santiago, First Division].

³¹ *Rollo*, p. 11.

³² *Id.* at 13.

³³ *Id.* at 27.

³⁴ 474 Phil. 557 (2004) [J. Carpio, First Division].

³⁵ *Id.* at 580–581.

³⁶ *Pasagui v. Villablanca*, 160-A Phil. 676, 679 (1975) [J. Antonio, Second Division].

possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, 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.³⁷

For a forcible entry case to prosper, the provision stipulates that a party alleging must prove the concurrence of the following elements, to wit: “(1) prior physical possession in the property; (2) unlawful deprivation of it by the defendant through force, intimidation, strategy, threat, or stealth.”³⁸ To stress, prior physical possession is a primary consideration and is considered as an indispensable requirement in forcible entry cases. Here, possession refers to actual physical possession, and not legal possession.³⁹ Elsewise stated, only prior physical possession, and not ownership or title, is the main issue.⁴⁰

Given that forcible entry cases are in the nature of a civil suit, the burden to successfully prove prior physical possession lies with the complaining party, who must establish their case by a preponderance of evidence.⁴¹

In the instant case, this Court is convinced that respondent had been in prior possession of the property and that petitioner had deprived her of such possession by means of force, strategy, and stealth. As sustained by the Municipal Trial Court in Cities, the Regional Trial Court, and the Court of Appeals, there is nothing fatally defective in the complaint filed by respondent, as it sufficiently averred facts constitutive of forcible entry: *first*, that respondent was the transferee of the subject property *via* a Deed of Assignment of Rights/Waiver dated April 30, 2013 by Paraguas; *second*, that by virtue of such transfer, she sought permission from the Baguio City Mayor’s Office to demolish the damaged building constructed therein, to be carried out at her own expense;⁴² *third*, sometime in January and April 2014, during the demolition, several armed individuals, under the instruction of petitioner, entered the subject property, blocking the entrance to the building with G.I. sheets, lumber, barbed wires, and steel bars. While inside the property, they detained respondent’s workers and confiscated their

³⁷ Emphasis supplied.

³⁸ *Rhema International Livelihood Foundation, Inc. v. Hibix, Inc.*, G.R. Nos. 225353-54, August 28, 2019, 915 SCRA 597, 603 [J. Carandang, First Division].

³⁹ *Rivera-Calingasan v. Rivera*, 709 Phil. 583, 591 (2013) [J. Brion, Second Division].

⁴⁰ *Id.*

⁴¹ *Nenita Quality Foods Corporation v. Galabo, et al.*, 702 Phil. 506, 519 (2013) [J. Brion, Second Division].

⁴² *Rollo*, p. 56.

cellphones for three days while constructing shanties inside the building;⁴³ *fourth*, respondent was prohibited from entering the subject property to retrieve her personal belongings;⁴⁴ and *fifth*, that such abusive and deceitful acts orchestrated by petitioner have caused tremendous anguish, stress and worry on the respondent.⁴⁵

This Court likewise agrees with respondent that notwithstanding her failure to use the words “prior possession,” her averments in the complaint clearly demonstrated that she was in prior physical possession of the subject property before petitioner entered the same through the employ of armed men.⁴⁶ The ruling in *Sumulong v. Court of Appeals*⁴⁷ is apropos:

x x x though the allegations in the complaint are ambiguous, indefinite, or uncertain, but, nevertheless a cause of action can, in any manner, be made out therefrom, and the plaintiff would be entitled to recover in any aspect of the facts or any combination of the facts alleged, if they were to be proved, then the motion to dismiss should be denied.⁴⁸

It must be recalled that possession may be acquired not only by material occupation, but also by the fact the thing is subject to the action of one’s will or by proper acts and legal formalities established for acquiring such right. This Court pronounced in *Mangaser v. Ugay*⁴⁹ that “possession in the eyes of the law does not mean that a[n individual] has to have [his/her] feet on every square meter of ground before it can be said that [he/she] is in possession. It is sufficient that petitioner was able to subject the property to the action of [his/her] will.”⁵⁰ Here, this Court is in concurrence with the Regional Trial Court and the Court of Appeals in finding that the juridical act of obtaining a demolition permit from the mayor’s office and having been granted the same, as well as undertaking such demolition by hiring laborers, all of whom proffered sworn statements attesting to such fact,⁵¹ are sufficient to establish respondent’s prior possession of the subject property.

In stark contrast, petitioner failed to surmount respondent’s convincing evidence. While he asserts that he purchased the subject property from a certain Payla, who was the previous owner of the subject property, there is a dearth of evidence to prove such fact. More militating against petitioner is his failure to pinpoint the exact time of his possession. At any rate, assuming *arguendo* that petitioner was indeed the owner of the subject property, this Court hastens to add that in a forcible entry case:

⁴³ *Id.* at 58.

⁴⁴ *Id.* at 60.

⁴⁵ *Id.* at 61–62.

⁴⁶ *Id.* at 82.

⁴⁷ 302 Phil. 392 (1994) [J. Davide, Jr., First Division].

⁴⁸ *Id.* at 39–400.

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

⁵⁰ *Id.* at 382–383. (Citations omitted)

⁵¹ *Rollo*, p. 53.

x x x a party who can prove prior possession can recover such possession even against the owner [himself/herself]. Whatever may be the character of [his/her] possession, if [he/she] has in [his/her] favor prior possession in time, [he/she] has the security that entitles [him/her] to remain on the property until a person with a better right lawfully ejects [him/her].⁵² (Citations omitted)

As explained by this Court in *Heirs of Laurora v. Sterling Technopark III*:⁵³

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. If such illegal manner of ejectment is employed, as it was in the present case, the party who proves prior possession — in this case, petitioners — can recover possession even from the owners themselves.

Granting *arguendo* that petitioners illegally entered into and occupied the property in question, respondents had no right to take the law into their own hands and summarily or forcibly eject the occupants therefrom.

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 ejectment suit, an *accion publiciana* — a plenary action intended to recover the better right to possess; or an *accion reivindicatoria* — an action to recover ownership of real property.⁵⁴

Indeed, given that all the required allegations to make out a cause of action for forcible entry have been satisfactorily alleged in the complaint, and given that the evidence preponderates in favor of the respondent, this Court finds no grave abuse of discretion on the part of the Court of Appeals in affirming the rulings of the Municipal Trial Court in Cities and the Regional Trial Court.

FOR THESE REASONS, the petition for *certiorari* is **DISMISSED**. The Decision dated October 21, 2019 and the Resolution dated January 27, 2021 of the Court of Appeals in CA-G.R. SP No. 149600, sustaining the Decision dated December 22, 2016 of the Regional Trial Court, Branch 5, Baguio City, which affirmed the Decision dated November 16, 2015 of the Municipal Trial Court in Cities, Branch 4, Baguio City ordering petitioner Johnny Yu to vacate the premises, having been found to have forcibly entered therein, in prejudice to the possessory rights of respondent Florisa D. Palandito, are hereby **AFFIRMED**.

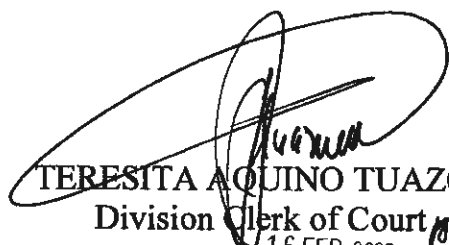
⁵² *Nenita Quality Foods Corporation v. Galabo*, *supra* note 41, at 517.

⁵³ 449 Phil. 181 (2003) [J. Panganiban, Third Division].

⁵⁴ *Id.* at 187-188.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
16 FEB 2023

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 5
Baguio City
(Spec. Civil Action No. 8363-R)

HON. PRESIDING JUDGE (reg)
Municipal Trial Court in Cities, Branch 4
Baguio City
(Civil Case No. 13816)

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