

REPUBLIC OF THE PHILIPPINES  
THIRD JUDICIAL REGION  
FIRST MUNICIPAL CIRCUIT TRIAL COURT  
DINALUPIHAN-HERMOSA  
PROVINCE OF BATAAN

SPOUSES ALFONSO AND  
CARMELITA MATIAS  
Plaintiffs,

-versus -

CIVIL CASE NO. 1619  
For: UNLAWFUL DETAINER

GLAIZA PINEDA,  
Defendants.

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DECISION

Submitted for decision is the Complaint for unlawful detainer filed by plaintiffs-spouses Alfonso and Carmelita Matias against Glaiza Pineda.

In their *Complaint*<sup>1</sup>, Plaintiffs allege, among others, that they are the owners of a property situated at Brgy. Sta. Isabel (Tabacan), Dinalupihan, Bataan, consisting of **Five Hundred Forty-Eight (548) square meters** with an assessed value of Two Hundred Seventeen Thousand Seven Hundred Twenty Pesos (₱217,720.00) or Three hundred ninety pesos (₱390.00) per square meter, and more particularly described in Transfer Certificate of Title No. T-95160 of the Registry of Deeds for the Province of Bataan; that they were in possession of the said property until a portion thereof, equivalent to Two hundred seven (207) square meters, had been occupied by defendant Glaiza Pineda with their tolerance; that they are of advance ages are now trying to recover possession of the said portion of their property from defendant, but the latter failed and refuse to peacefully surrender possession of the same despite repeated demands, the last of which was verbally made in February 2019; that they were constrained to refer the matter to the Barangay authorities of Brgy. Sta, Isabel, Dinalupihan, Bataan, but the same turned futile because the defendant remained uncooperative, and as proof thereof a Certificate to File Action was issued by Ruben A. Julongbayan, Lupon Chairman of the said barangay; that being the owners of the property, they have the right to possess the said property and exclude others from enjoyment thereof; that defendant's unjustified refusal to vacate the portion of their property and peacefully surrender the same to them, they suffered

<sup>1</sup> Record, pp. 3-8.



sleepless nights, mental anguish, wounded feelings and serious anxiety and other form of moral damages especially as they are already of advanced ages who only want to enjoy their property for the remaining years of his (*sic*) life, thus defendant should be made liable to pay them the amount of One hundred thousand pesos (₱100,000.00) for and by way of moral damages; that despite consistent plea to peacefully surrender possession of the said property without judicial recourse so as to avert the expenses which may be incurred in juridical processes, defendant remained deaf and numb on their demands, hence, they were left with no other option but to seek the intervention of the court by bringing the instant case, and in the process, were constrained to engage the services of counsel with whom they agreed to pay the amount of Fifty thousand pesos (₱50,000.00) plus Two thousand five hundred (₱2,500.00) for every appearance in court, for and by way of attorney's fees; that there being no other way by which they could enforce their right and to protect their interest as they had already exhausted all the possible remedies until they were left with no other choice but to bring the instance action to this court, hence, the defendant should be made liable to pay the cost of suit; that they pray that judgment be rendered ordering the defendant and all persons claiming rights under her to vacate the subject property; and that they also pray for the defendant to pay them the amount of One hundred thousand pesos (₱100,000.00) as moral damages, Fifty thousand pesos (₱50,000.00) plus Two thousand five hundred pesos (₱2,500.00) for every counsel's appearance in court as reasonable attorney's fees, and for the defendants to pay the cost of suit.

Despite having been served with summons<sup>2</sup>, the Defendant did not file her answer to the Complaint. Hence, pursuant to Section 6 of the Rules on Summary Procedure, the court may now render judgment as may be warranted by the facts alleged in the complaint and limited to what is provided for therein.

#### ISSUE

In an unlawful detainer case, the issue to be resolved is: Who between the parties is entitled to possession over the subject lot?

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<sup>2</sup> *Id.* at p. 13.



### RULING

It is undisputed that summons<sup>3</sup>, together with the Complaint and its annexes, were duly served upon the defendant on June 19, 2019 as shown by the Process Server's Return of Service<sup>4</sup>. It is likewise, undisputed that, in spite of this, the defendant failed to file her answer to the complaint within the ten (10)-day reglementary period provided for by the Rule.

Sections 5 and 6 of the Rule on Summary Procedure provide:

**Section. 5. Answer.** - Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. Affirmative and negative defenses not pleaded therein shall be deemed waived, except for lack of jurisdiction over the subject matter. Cross-claims and compulsory counterclaims not asserted in the answer shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

**Section 6. Effect of failure to answer.-** Should the defendant fail to answer the complaint within the period above provided, the court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is provided for therein: Provided, however, that the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 18 of the Rules of Court, if there are two or more defendants.

In view of the failure of the defendant to file her answer to the complaint the court can render judgment as may be warranted by the facts alleged in the complaint and limited to what is provided therein.

For unlawful detainer to prosper the following must be alleged in the Complaint, to wit:

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<sup>3</sup> *Id.* at p. 12.

<sup>4</sup> *Id.* at p. 13.



1) initially, possession of property by the defendant was by contract with or by **tolerance** of the plaintiff;

(2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;

(3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and

(4) **within one year from the last demand on defendant to vacate the property**, the plaintiff instituted the complaint for ejectment.<sup>5</sup> (*underscoring ours*)

In the instant case, plaintiffs claim that they are the owners of a parcel of land with an area of Five hundred forty-eight (548) square meters which is situated at Brgy. Sta. Isabel (Tabacan), Dinalupihan, Bataan, as shown by the Transfer Certificate of Title No. T-95160 and Tax Declaration of Real Property No. 05518, respectively attached as Annexes A and B in their Complaint. They have been in possession of the said property until a portion thereof with an area of Two Hundred Seven (207) square meters had been occupied with their tolerance by the defendant. Plaintiffs claim that they are now trying to recover possession of the said portion of their property from the defendant but the latter, despite repeated demands failed and refuse to peacefully surrender possession thereof to them. Hence, the plaintiffs brought the matter to the barangay authorities of Brgy. Sta. Isabel, Dinalupihan, Bataan, but the same turned futile as the defendant remained uncooperative. Hence, a "*Katibayan Upang Makadulog sa Hukuman*"<sup>6</sup> (*Certificate to File Action*) dated January 11, 2019 was issued by the *Tanggapan ng Lupong Tagapamayapa* of Barangay Sta. Isabel, Dinalupihan, Bataan.

It is undisputed that the plaintiffs are the owners of the subject property as shown by the Transfer Certificate of Title No. T-95160<sup>7</sup>. Plaintiffs' claim that the defendant occupies the said property at their tolerance was not even disputed. To reiterate, the failure of the defendant to timely file

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<sup>5</sup> *Cabrera vs. Getaruela*, G.R. No. 164213, April 21, 2009.

<sup>6</sup> *Record*, p. 10.

<sup>7</sup> *Id.* at p. 7.



their answer and controvert the claim against them constituted their acquiescence to every allegation stated in the complaint.

Plaintiffs verbally demanded from the defendant to vacate the subject property sometime in February 2019 and even brought the matter before the barangay. Despite the demand of the plaintiffs the defendant refused to vacate and surrender possession of the subject property to them. Considering that the case was filed before this court on September 25, 2019, the filing was still within the one (1) year reglementary period. The one (1)-year period as required by Section 1, Rule 70 of the Rules of Court<sup>8</sup> is counted from the last demand to vacate the subject property.

Hence, all the essential requisites for the unlawful detainer to prosper are present in this case. Defendant's possession over the subject property was merely by tolerance of the plaintiffs. Therefore, defendant is bound to surrender possession of the same upon demand of the plaintiffs.

Anent the claim for attorney's fees, plaintiffs were constrained to litigate due to the refusal of the defendant to voluntarily vacate and surrender possession of the subject property. Hence, plaintiffs are entitled to attorney's fees. However, the amount of attorney's fees to be awarded shall not exceed Twenty Thousand Pesos (₱20,000.00) pursuant to Section 1 (A) (1)<sup>9</sup> of the Revised Rules on Summary Procedure. Thus, the plaintiffs are only entitled to a reasonable amount of Twenty Thousand pesos (₱20,000.00) as attorney's fees.

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<sup>8</sup> 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, 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. (***underscoring ours***)

<sup>9</sup> SECTION 1. *Scope.*- This rule shall govern the summary procedure in the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts and the Municipal Circuit Trial Courts in the following cases falling within their jurisdiction:

A. Civil Cases:

- (1) All cases of forcible entry and unlawful detainer, irrespective of the amount of damages or unpaid rentals sought to be recovered where attorney's fees are awarded, the same shall not exceed twenty thousand pesos (₱20,000.00).



With regards to plaintiffs' claim for moral damages, the court denied the same. The rule is settled that in unlawful detainer cases, the only damages that can be recovered is the fair rental value or the reasonable compensation for the use and occupation of the leased property. The reason for this is that in such cases, the only issue raised in ejectment cases is that of rightful possession; hence, the 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.<sup>10</sup>

**WHEREFORE**, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant as follows:

1. Ordering the defendant and all persons claiming rights under her to vacate and surrender possession of the subject property in favor of the plaintiffs; and
2. Ordering the said defendant to pay the plaintiffs the amount of Twenty Thousand Pesos (₱20,000.00) as attorney's fees, and the cost of suit.

**SO ORDERED.**

Dinalupihan, Bataan. November 8, 2019.



**PHILIP M. CRUZ**

*Judge*

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<sup>10</sup> *Dumo vs. Espinas, et al.*, G.R. No. 141962, January 25, 2006.