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

SAMUEL F. MISTA,
Plaintiff

-versus - **CIVIL CASE NO. 1617**
For: UNLAWFUL DETAINER

GLORIA OCAN AND ALL OTHER PERSONS CLAIMING RIGHTS UNDER HER,
Defendants.
x----------x

DECISION

Submitted for decision is the Complaint for unlawful detainer filed by Samuel F. Mista against Gloria Ocan and all other persons claiming rights under her.

In his Complaint, plaintiff alleges, among others, that he is the owner of a property situated at Brgy. Colo, Dinalupihan, Bataan consisting of One Hundred Fifty (150) square meters, more or less, and has been declared for real property tax purposes in his name under Tax Declaration No. 045130; that defendant sought his permission to use the said property where she and her family can temporarily settle; that she granted the said request of the defendant as he has no plans yet to use his property at the time; that he is of advance age and now trying to recover possession of the said portion of his property from the defendant but the latter despite repeated demands dialed and refuse to peacefully surrender possession there to him, the last being on June 25, 2019; that he was constrained to refer the matter to the *Tanggapan ng Lupong Tagapamayapa of Brgy. Colo, Dinalpuihan*, Bataan, but the same turned futile because the defendant remained uncooperative, as a proof, a Certificate to File Action was issued by the said Lupon; the he being the owner, has the right to possess the same and exclude others from the enjoyment thereof; that Defendant's unjustified refusal to vacate the portion of his property and peacefully surrender possession thereof to him he suffered sleepless nights, mental anguish, wounded feelings, serious anxiety and other form of moral damages especially as he is already of advanced age who only want to enjoy his property for the remaining years of his life, thus the defendant should be made liable to pay him the amount

of P50,000.00 for and by way of moral damages; that despite his consistent plea to peacefully surrender possession of the said property without judicial recourse so as to avert the expenses which may be incurred in judicial processes, defendant remained deaf and numb, hence, he was left with no other option but to seek the intervention of the court by bringing the instant case and in the process was constrained to engage the services of counsel with whom they agreed to pay the amount of P30,000.00 plus P2,500.00 for every appearance in court, for and by way of attorney's fees; and that there being no other way by which he could enforce his right and protect his interest as he had already exhausted all the possible remedies until he was left with no other choice but to bring the instant action to this court, hence the defendant should be made to pay the cost of the suit.

The defendant failed to file her answer to the complaint within the reglementary period despite having been duly served[1] with summons[2], complaint and its annexes. Hence, the case is already ripe for decision.

RULING

In view of the failure of the defendant to file her answer within the reglementary period the court can now render judgment as may be warranted by the allegations in the complaint. In the case of *Fairland Knitcraft Corporation vs. Arturo Loo Po*[3], the Supreme Court had the occasion to rule that:

> "Forcible entry and unlawful detainer cases are summary proceedings designed to provide for an expeditious means of protecting actual possession or the right to possession of the property involved. It does not admit of a delay in the determination thereof. It is a 'time procedure' designed to remedy the situation. **Thus, as a consequence of the defendant's failure to file an answer, the court is simply tasked to render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein**." ***(underscoring ours)***

---

[1] Record, p. 31
[2] *Id.* at p. 32.
[3] G.R. No. 217694 dated January 27, 2016.

A perusal of the complaint shows that it contains a valid cause of action. In *Cabrera v. Getaruela*,[4] the Supreme Court held that a complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

> (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.

The allegations in the complaint which are pertinent to this point are as follows:

> "4. That plaintiff is the owner of a property situated at Brgy. Colo, Dinalupihan, Bataan consisting of ONE HUNDRED FIFTY (150) square meters, more or less, and has been declared for real property tax purposes in his name under TD No. 045130 of the Municipality of Dinalupihan, Bataan a faithful reproduction thereof is hereto attached and made integral part hereof as Annex "A";
> 5. Defendant on the other hand sought plaintiff's permission to use the said plaintiff's property where she and his family can temporarily settle, which request was granted as plaintiff had no plans to use his property yet at the time;
> 6. Plaintiff, who is of advance age, is now trying to recover possession of the said portion of their property from defendant GLORIA OCAN but the latter, despite repeated demands failed and refused to peacefully surrender possession thereof to plaintiffs the last being on June 25, 2019 via demand letter sent by plaintiff's counsel to defendant,

[4] G.R. No. 164213, April 21, 2009.

copy thereof is hereto attached as Annex "B" and the Return Card as proof of receipt thereof as Annex "B-1";

7. That consequently plaintiff was constrained to refer the matter to the Tangapan ng Lupong Tagapamayapa of Brgy. Colo, Dinalupihan, Bataan which however, likewise turned futile because the defendant remained uncooperative, as proof thereof, a certificate to file action issued by the Lupon is hereto attached and made integral part hereof as Annex "C";

Xxx

Xxx

xxx

11. There being no other way by which the plaintiff herein could enforce his right and protect his interest as he had already exhausted all the possible remedies until he was left with no other choice but to bring the instant action to this Honorable Court, hence, defendant should be made liable to pay the cost of the suit.[5]

As culled from the Complaint, defendant's possession of the subject property was by mere tolerance of the plaintiff. Despite receipt[6] of the demand letter to vacate[7] dated June 25, 2019, defendant failed to vacate and surrender possession of the subject property to the plaintiff. The Complaint was filed on September 9, 2019 or within the one (1) year reglementary period from the last demand to vacate. Hence, the case is one of unlawful detainer.

To reiterate, the failure of the defendant to timely file her answer and controvert the claim against her constituted her acquiescence to every allegation stated in the complaint.

Now, despite receipt[8] of the demand letter to vacate[9] the subject property, defendant refused to vacate the same and still continue to occupy the same. Well settled is the rule that persons who occupy the land of another at the latter's tolerance or permission, without any contract between them is bound by implied promise that they will vacate the same

---

[5] Record, pp. 1-3.
[6] *Id.* at p. 9.
[7] *Id.* at p. 8.
[8] *Id.* at p. 9.
[9] *Id.* at 8.

upon demand, failing which a summary action for ejectment is the proper remedy against them.[10] Plaintiff's forbearance ceased when it made demand on defendants to vacate the subject property. Thenceforth, defendant's occupancy of the land had become unlawful.

Anent the claim for attorney's fees, plaintiff was constrained to litigate due to the refusal of the defendant to voluntarily vacate and surrender possession of the subject property. Hence, plaintiff is 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)[11] of the Revised Rules on Summary Procedure. Thus, the plaintiff is only entitled to a reasonable amount of Twenty Thousand pesos (₱20,000.00) as attorney's fees.

With regards to plaintiff's claim for moral damages and exemplary damages, the court denied the same. The rule is settled that in forcible entry or unlawful detainer cases, the only damage 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.[12]

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant, Gloria Ocan, 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 plaintiff; and

---

[10] *Arambulo vs. Gungab*, G.R. No. 156581, September 30, 2005, 471 SCRA 640, 650, *citing Boy v. Court of Appeals*, G.R. No. 125088, April 14, 2004, 427 SCRA 196, 206.

[11] 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).

[12] *Dumo vs. Espinas, et al.*, G.R. No. 141962, January 25, 2006.

2. Ordering the said defendant to pay the plaintiff the amount of Twenty Thousand Pesos (₱20,000.00) as attorney's fees, and the cost of suit.

SO ORDERED.

Dinalupihan, Bataan. October 9, 2019.

PHILIP M. CRUZ
Judge