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WHEREFORE, the petition is **DENIED** for lack of merit. The December 22, 2016 Decision and the June 13, 2017 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 1342 are hereby **AFFIRMED**.

SO ORDERED.

Carpio, S.A.J. (*Chairperson*), *Caguioa, Lazaro-Javier,* and *Zalameda, JJ.*, concur.

FIRST DIVISION

[G.R. No. 234655. September 11, 2019]

JESSICA LIO MARTINEZ, *petitioner, vs.* **HEIRS OF REMBERTO F. LIM, namely: FABIANA TIMBANCAYA LIM, CHINITA LIM PE, MINYANI LIM BAYLOSIS, GENARO T. LIM, EMELINE LIM ANGELES and BELINDA LIM VILLEGAS, represented by their Attorney-in-Fact, JIM GERALD LIM PE,** *respondents*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; *ACCION INTERDICTAL*; SEEKS TO RECOVER PHYSICAL POSSESSION WHERE THE DISPOSSESSION HAS NOT LASTED FOR MORE THAN ONE YEAR, AND THE ACTION IS EITHER FORCIBLE ENTRY OR UNLAWFUL DETAINER WHICH IS TO BE EXCLUSIVELY BROUGHT IN THE PROPER INFERIOR COURT; FORCIBLE ENTRY AND UNLAWFUL DETAINER, DISTINGUISHED.— *Accion interdictal* is a summary action that seeks the recovery of physical possession where the dispossession has not lasted for more than one year, and is to be exclusively brought in the

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proper inferior court. The issue involved is material possession or possession *de facto*. The action is either forcible entry (*detentacion*) or unlawful detainer (*deshhucio*). In forcible entry, the plaintiff is deprived of physical possession of real property by means of force, intimidation, strategy, threats, or stealth, but in unlawful detainer, the defendant illegally withholds possession of real property after the expiration or termination of his right to hold possession under any contract, express or implied. The two are distinguished from each other in that in forcible entry, the possession of the defendant is illegal from the beginning, and that the issue is which x x x party has prior *de facto* possession, while in unlawful detainer, the possession of the defendant is originally legal but becomes illegal because of the expiration or termination of the right to possess. Both actions must be brought within one year from the date of actual entry on the land by the defendant in case of forcible entry, and within one year from the date of last demand in case of unlawful detainer. The jurisdiction over these two summary actions lies in the proper Municipal Trial Court of the municipality or city within whose territory the property in dispute is located x x x [, pursuant to] Section 33 (2) of B.P. Blg. 129, as amended by Republic Act No. 7691 x x x.

2. ID.; ID.; ID.; *ACCION PUBLICIANA*; A PLENARY ACTION TO RECOVER THE RIGHT OF POSSESSION TO BE FILED WHEN THE DISPOSSESSION LASTED FOR MORE THAN ONE YEAR, AND THE ISSUE IS WHICH PARTY HAS THE BETTER RIGHT OF POSSESSION.— *Accion publiciana* is the second possessory action. It is a plenary action to recover the right of possession, and the issue is which party has the better right of possession (possession *de jure*). It can be filed when the dispossession lasted for more than one year. It is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and the action can no longer be maintained under Rule 70 of the *Rules of Court.* The objective of the plaintiff in *accion publiciana* is to recover possession only, not ownership.

3. ID.; ID.; ID.; *ACCION REIVINDICATORIA*; THE ISSUE INVOLVED THEREIN IS THE RECOVERY OF OWNERSHIP OF REAL PROPERTY AND IT CAN BE FILED WHEN THE DISPOSSESSION LASTED FOR

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MORE THAN ONE YEAR.— The last possessory action is *accion reivindicatoria* or *accion de reivindicacion*. It is an action whereby the plaintiff alleges ownership of the parcel of land and seeks recovery of its full possession. The issue involved in and determined through *accion reivindicatoria* is the recovery of ownership of real property. This action can be filed when the dispossession lasted for more than one year.

4. ID.; ID.; ID.; *ACCION PUBLICIANA* AND *ACCION REIVINDICATORIA;* FOR PURPOSES OF ASCERTAINING THE COURT THAT HAS EXCLUSIVE ORIGINAL JURISDICTION, THE DETERMINANT IS THE ASSESSED VALUE OF THE PROPERTY SUBJECT OF THE DISPUTE, NOT THE MARKET OR ACTUAL VALUE THEREOF.— For purposes of determining the court that has exclusive original jurisdiction over *accion publiciana* and *accion reivindicatoria*, Section 33 (3) of B.P. Blg. 129, as amended, expressly states x x x [that] [t]he determinant is the assessed value of the property subject of the dispute, not the market or actual value thereof. The assessed value of real property is the fair market value of the real property multiplied by the assessment level. It is synonymous to taxable value. In contrast, the fair market value is the price at which property may be sold by a seller, who is not compelled to sell, and may be bought by a buyer, who is not compelled to buy.

5. ID.; ID.; JURISDICTION; JURISDICTION OVER THE SUBJECT MATTER; DETERMINED BY THE ALLEGATIONS OF THE COMPLAINT, AND THE BODY OF THE COMPLAINT, NOT ITS TITLE, FIXES THE NATURE OF THE ACTION.— The jurisdiction of the court over the subject matter is determined by the allegations of the complaint irrespective of whether or not the plaintiff is entitled to recover upon all or only some of the claims asserted therein. As a necessary consequence, the jurisdiction of the court cannot be made to depend upon the defenses set up in the answer or upon the motion to dismiss, for, otherwise, the matter of jurisdiction will become almost entirely dependent upon the defendant. If the nature of the action pleaded as appearing from the allegations in the complaint determines the jurisdiction of the court, the averments of the complaint and the character of the relief sought are to be ascertained. Verily, the body of the complaint, not its title, fixes the nature of an action.

6. ID.; ID.; SPECIAL CIVIL ACTIONS; FORCIBLE ENTRY; A BOUNDARY DISPUTE CANNOT BE SETTLED SUMMARILY THROUGH THE ACTION FOR FORCIBLE ENTRY.— A proper reading of the allegations of the complaint shows that the case revolved around the actual metes and bounds of the parties' respective properties. The complaint was anchored on the theory that the properties registered in three certificates of title issued in the name of the petitioner had erroneously included portions of the property covered by the tax declaration issued in the name of the respondents' predecessor in interest. In contrast, the petitioner hinged her right on the indefeasibility of her Torrens titles, and relied on the technical descriptions of the boundaries of her properties as stated by metes and bounds contained in her TCT No. 065-2010000259, TCT No. 065-2010000260 and TCT No. 065-2010000261. x x x [T]he dispute essentially concerned the actual metes and bounds of their respective properties. Under such circumstances, the issue was really whether or not the petitioner's titles included the disputed portion. The dispute did not primarily concern merely possessory rights, but related to boundaries, and could not be summarily determined. x x x [T]he question focused on whether the property being claimed and occupied by the petitioner had really been part of her registered properties, or of the respondents' property. The proper resolution of such dispute in favor of the respondents could be had only after a hearing in which the trial court was enabled through preponderant proof showing that, indeed, the disputed area was *not within* the metes and bounds appearing and stated in the TCTs of the petitioner. x x x [A] boundary dispute cannot be settled summarily through the action for forcible entry covered by Rule 70 of the *Rules of Court*. In forcible entry, the possession of the defendant is illegal from the very beginning, and the issue centers on which between the plaintiff and the defendant had the prior possession *de facto*. If the petitioner had possession of the disputed areas by virtue of the same being covered by the metes and bounds stated and defined in her Torrens titles, then she might not be validly dispossessed thereof through the action for forcible entry. The dispute should be properly threshed out only through *accion reivindicatoria*. Accordingly, the MCTC acted without jurisdiction in taking cognizance of and resolving the dispute as one for forcible entry.

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APPEARANCES OF COUNSEL

Cruz Neria and Carpio Law Offices for petitioner.
Zoilo C. Cruzat for respondents.

D E C I S I O N

BERSAMIN, *C.J.*:

The resolution of a boundary dispute — by reason of the issue therein being whether or not the contested portion pertained to one or the other of the parties — is not within the province of the summary action of forcible entry under Rule 70 of the *Rules of Court*. It can be taken proper cognizance of in the context of *accion reivindicatoria*.

The Case

The petitioner hereby appeals the decision promulgated on March 20, 2017,[1] whereby the Court of Appeals (CA) affirmed the judgment rendered on April 29, 2015 by the Regional Trial Court (RTC), Branch 51, in Puerto Princesa City, Palawan ordering her and all other persons acting for and in her behalf to vacate the part of the premises covered by Tax Declaration No. 006-0515-A of the Assessor's Office of Coron, Palawan originally issued in the name of the heirs of Socorro Lim, and to turn over its peaceful possession to the respondents.[2]

Antecedents

The factual and procedural antecedents of the case as summarized by the CA are as follows:

> This case emanated from an action for Forcible Entry with Prayer for Issuance of Writ of Preliminary Injunction filed by herein respondents heirs of Remberto Lim against petitioner Jessica Lio Martinez.

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[1] *Rollo*, pp. 46-55; penned by Associate Justice Manuel M. Barrios, with Associate Justice Ramon M. Bato, Jr. and Associate Justice Renato C. Francisco, concurring.

[2] *Id.* at 266-276; penned by Presiding Judge Ambrosio B. De Luna.

Respondents are the heirs of Remberto Lim who, during his lifetime, owned, possessed, and cultivated a parcel of land located in Sitio Banga, Barangay VI, Coron, Palawan, designated as Assessor's Lot 065 and covered by Tax Declaration No. 006-0515-A.

Adjoining Remberto's land is the land of his brother — Jose Lim — registered under OCT No. E-9487 with an area of Twenty Eight Thousand and Six square meters (28,006 sqm.). It is worthy to note that per the technical description in said title, the property is bounded on both the east and west by the properties of the Heirs of Socorro Lim, which were later on acquired by the late Remberto Lim.

As it happened, Jose sold his land covered by OCT No. E-9487 to a certain Dorothy and Alexander Medalla who, thereafter, subdivided the same into two (2) smaller lots, designated as Lots 1 and 2. Lot 2 was further subdivided into nine (9) smaller lots, this time designated as Lots 2-A to 2-1, inclusive. Lots 2-D, 2-E and 2-F were thereafter sold to herein petitioner Martinez, pursuant to three (3) separate Deeds of Absolute Sale, and by virtue thereof, petitioner Martinez was issued TCT Nos. 065-2010000259, 065-2010000260, and 065-2010000261 in her favor.

On 10 August 2010, petitioner Martinez and her father entered into the property and uprooted some of the acacia mangium trees that were previously planted thereon by the late Remberto Lim and his son, Alan Lim. To further delineate their claimed property, petitioner fenced the same and placed signs thereon that read "NO TRESPASSING" and "NOTICE THIS PROPERTY IS OWNED BY THE MARTINEZ FAMILY."

Now then, claiming that petitioner had unlawfully encroached into a portion of their property, respondents, through counsel, sent a demand letter to petitioner demanding that she immediately remove the fence that she built on respondents' land as well as to turn over peaceful possession of that portion of property that petitioner intruded into. Unfortunately, the demand was ignored by petitioner, and respondents were constrained to file the instant complaint for Forcible Entry with Prayer for Issuance of Writ of Preliminary Injunction against petitioner before the Municipal Circuit Trial Court of Coron-Busuanga (MCTC)."

In its Decision dated 12 August 2014, the MCTC ordered petitioner, among others, to vacate and turn over peaceful possession of the disputed portion of property. In its ruling, the MCTC examined petitioner's title as well as those of her predecessors' and concluded

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that when the Medalla spouses subdivided Lot 2 into nine (9) smaller lots, they erroneously included a portion of Socorro Lim's property. Specifically, the MCTC noticed that in Jose Lim's title and the resultant titles issued to the Medalla spouses, their property was bounded on the east by Socorro Lim's property. However, in the titles for Lots 2-A to 2-1, inclusive, the properties became bounded on the east by Mabentangan Road, which was supposedly the eastern boundary of Socorro Lim's property. As such, despite petitioner's titles over the property, the MCTC awarded possession *de facto* to respondents and, consequently, ordered petitioner to immediately vacate and turn over peaceful possession of the disputed portion to the respondents.

On appeal by petitioner, the Regional Trial Court, Branch 51, Palawan and Puerto Princesa City (RTC) affirmed *in toto* the disposition of the MCTC. Petitioner then filed a Motion for Reconsideration thereof, but to no avail.[3]

The petitioner timely filed an appeal.

Decision of the CA

In the now assailed decision,[4] the CA opined that in ejectment cases, the better right of possession was primarily associated with the party who could prove prior physical possession of the property in dispute; that the respondents had the better right of possession over the disputed portion on account of priority in time considering the following documents submitted as evidence by the respondents, namely: (1) tax declarations in the name of Remberto Lim, from whom the respondents had inherited the portion in dispute; (2) a Tree Plantation Record Form; and (3) the memorandum dated June 4, 1999 issued by the City Environment and Natural Resources Office (CENRO) of Coron, Palawan certifying that acacia mangium trees and mahogany species were planted by Remberto's son, Allan Lim, on the land covered by Tax Declaration No. 006-0515-A issued in the name of Remberto Lim; and that it was evident that neither Jose Lim nor the Medallas (Dorothy and Alexander), from whom the petitioner had derived her title, had dominion over the

[3] *Id.* at 47-49.

[4] *Supra* note 1.

disputed portion, thus warranting the logical conclusion that said portion had been erroneously included in the titles issued to the Medallas.

The *fallo* of the decision of the CA reads:

WHEREFORE, foregoing considered, the Petition for Review is **DENIED**. The Decision dated 29 April 2015 of the Regional Trial Court, Branch 51, Palawan and Puerto Princesa City is **SUSTAINED**.

SO ORDERED.[5]

The petitioner moved for reconsideration but her motion to that effect was denied on October 5, 2017.[6]

Hence, this appeal.

Issues

The petitioner poses the following issues,[7] namely:

I.

THE COURT A QUO ERRED IN UPHOLDING THE TRIAL COURT'S PARTICULAR FINDING THAT RESPONDENTS SUPPOSEDLY HAVE A BETTER AND/OR SUPERIOR RIGHT OF POSSESSION OVER THE CONTESTED PROPERTIES, NOTWITHSTANDING THAT THE PETITIONER'S CLAIM OF OWNERSHIP OVER THE SUBJECT PROPERTIES IS SUPPORTED BY A TORRENS TITLE TO HER NAME;

II.

THE COURT A QUO ERRED IN UPHOLDING THE TRIAL COURT'S PARTICULAR FINDING THAT PETITIONER'S CERTIFICATES OF TITLE [SUPPOSEDLY] ENCROACHED ON THE RESPONDENTS' PUTATIVE PROPERTY;

III.

THE COURT A QUO ERRED IN UPHOLDING THE TRIAL COURT'S FINDING THAT RESPONDENTS ARE THE HEIRS OF

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[5] *Id.* at 55.

[6] *Id.* at pp. 56-58.

[7] *Id.* at 14.

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THE DECEASED REMBERTO F. LIM, AND THAT THE PROPERTY BEING CLAIMED BY THEM BELONGS TO THE ESTATE OF THE SAID DECEASED;

IV.

THE COURT A QUO ERRED IN UPHOLDING THE VALIDITY OF THE COMPLAINT, NOTWITHSTANDING THE FAILURE OF ALL THE HEREIN RESPONDENTS, AS PLAINTIFFS IN THE FORCIBLE ENTRY CASE, TO SIGN THE REQUISITE CERTIFICATE OF NON-FORUM SHOPPING ATTACHED TO THE COMPLAINT; and

V.

THE COURT A QUO ERRED IN NOT FINDING THE RESPONDENTS GUIILTY OF FORUM-SHOPPING, AND IN FAILING TO ORDER THE DISMISSAL OF THE COMPLAINT ON THIS ADDITIONAL GROUND.

In the resolution promulgated on February 21, 2018,[8] the Court denied the petition for review on *certiorari* for its failure to sufficiently show that the CA had committed any reversible error in promulgating the assailed decision and resolution as to warrant the exercise of the Court's discretionary appellate jurisdiction.

Undaunted, the petitioner filed a motion for reconsideration arguing that the CA had grossly erred in refusing to acknowledge and recognize her Torrens titles as proof of her superior right to the possession of the disputed portion; and that the decision of the CA, like the previous decisions of the lower courts, constituted a quintessential collateral attack on her various certificates of title.

In a resolution promulgated on July 30, 2018,[9] the Court granted the petitioner's motion for reconsideration; reinstated the appeal; and required the respondents to comment on the petition for review on *certiorari*.

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[8] *Id.* at 304.

[9] *Id.* at 317.

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The respondents submit in their comment that the land covered by TD No. 006-0515-A had been included in the titles issued to the petitioner who was consequently illegally and unlawfully occupying the same; that they were still the lawful owners of the land illegally and unlawfully included in the titles of the petitioner; that they had the better and superior rights of possession over the land covered by TD No. 006-0515-A; and that they substantially complied with the rules on certification on non-forum shopping.

Ruling of the Court

We find merit in the appeal.

Preliminarily, this Court discusses and distinguishes the three types of possessory actions sanctioned in this jurisdiction, namely; *accion interdictal*, *accion publiciana* and *accion reivindicatoria*.

Accion interdictal is a summary action that seeks the recovery of physical possession where the dispossession has not lasted for more than one year, and is to be exclusively brought in the proper inferior court.[10] The issue involved is material possession or possession *de facto*.[11] The action is either forcible entry (*detentacion*) or unlawful detainer (*deshhucio*). In forcible entry, the plaintiff is deprived of physical possession of real property by means of force, intimidation, strategy, threats, or stealth, but in unlawful detainer, the defendant illegally withholds possession of real property after the expiration or termination of his right to hold possession under any contract, express or implied. The two are distinguished from each other in that in forcible entry, the possession of the defendant is illegal from the beginning, and that the issue is which a party has prior *de facto* possession, while in unlawful detainer, the possession of the defendant is originally legal but becomes illegal because of the expiration or termination of the right to possess.[12] Both

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[10] *Corpuz v. Spouses Agustin*, 679 Phil. 352, 360 (2012).

[11] *Ross Rica Sales Center, Inc. v. Spouses Ong*, 504 Phil. 304, 318 (2005).

[12] *Heirs of Yusingco v. Busilak*, G.R. No. 210504, January 24, 2018.

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actions must be brought within one year from the date of actual entry on the land by the defendant in case of forcible entry, and within one year from the date of last demand in case of unlawful detainer.[13]

The jurisdiction over these two summary actions lies in the proper Municipal Trial Court of the municipality or city within whose territory the property in dispute is located. Section 33 (2) of B.P. Blg. 129,[14] as amended by Republic Act No. 7691, provides:

> Section 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> *x x x* *x x x* *x x x*
>
> 2. ***Exclusive original jurisdiction*** over cases of forcible entry and unlawful detainer: *Provided*, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

Accion publiciana is the second possessory action. It is a plenary action to recover the right of possession,[15] and the issue is which party has the better right of possession (possession *de jure*).[16] It can be filed when the dispossession lasted for more than one year.[17] It is also used to refer to an ejectment suit where the cause of dispossession is not among the grounds for forcible entry and unlawful detainer, or when possession has been lost for more than one year and the action can no

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[13] *Id.*

[14] The Judiciary Reorganization Act of 1980.

[15] *Bongato v. Spouses Malvar*, 436 Phil. 109, 117 (2002).

[16] *Ross Rica Sales Center, Inc. v. Spouses Ong*, 504 Phil. 304, 318 (2005).

[17] *Mendoza v. Municipality of Pulilan*, G.R. No. 200244 (Notice), [September 15, 2014].

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longer be maintained under Rule 70 of the *Rules of Court*. The objective of the plaintiff in *accion publiciana* is to recover possession only, not ownership.[18]

The last possessory action is *accion reivindicatoria* or *accion de reivindicacion*. It is an action whereby the plaintiff alleges ownership of the parcel of land and seeks recovery of its full possession.[19] The issue involved in and determined through *accion reivindicatoria* is the recovery of ownership of real property.[20] This action can be filed when the dispossession lasted for more than one year.[21]

For purposes of determining the court that has exclusive original jurisdiction over *accion publiciana* and *accion reivindicatoria*, Section 33 (3) of B.P. Blg. 129,[22] as amended, expressly states:

> Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases. — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> *x x x* *x x x* *x x x*
>
> (3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

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[18] *Spouses Padilla v. Velasco*, 596 Phil. 237, 247 (2009).

[19] *Javier v. Veridiano II*, 307 Phil. 583.

[20] *Ross Rica Sales Center, Inc. v. Spouses Ong*, 504 Phil. 304, 318 (2005).

[21] *Bongato v. Spouses Malvar*, 436 Phil. 109, 122-123 (2002).

[22] The Judiciary Reorganization Act of 1980, *Batas Pambansa Blg*. 129, August 14, 1981 as amended by R.A. 7691.

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The determinant is the assessed value of the property subject of the dispute, not the market or actual value thereof. The assessed value of real property is the fair market value of the real property multiplied by the assessment level. It is synonymous to taxable value. In contrast, the fair market value is the price at which property may be sold by a seller, who is not compelled to sell, and may be bought by a buyer, who is not compelled to buy.[23]

The jurisdiction of the court over the subject matter is determined by the allegations of the complaint irrespective of whether or not the plaintiff is entitled to recover upon all or only some of the claims asserted therein. As a necessary consequence, the jurisdiction of the court cannot be made to depend upon the defenses set up in the answer or upon the motion to dismiss, for, otherwise, the matter of jurisdiction will become almost entirely dependent upon the defendant. If the nature of the action pleaded as appearing from the allegations in the complaint determines the jurisdiction of the court, the averments of the complaint and the character of the relief sought are to be ascertained.[24] Verily, the body of the complaint, not its title, fixes the nature of an action.[25]

The complaint for forcible entry filed by the respondents contained the following pertinent allegations, to wit:

> 3. That during the lifetime of the deceased Remberto Lim he was the owner, claimant, actual, open, adverse and public possessor, occupant and cultivator, in the concept of an owner and against the whole world, of a parcel of land containing an area of Eight Thousand Two Hundred Twenty Seven (8,227) sq. meters more or less situated at Sitio Banga, Brgy. VI Coron, Palawan known and designated as Assessors Lot 065 covered by Tax Declaration No. 006-0515-A and more particularly described as follows, to wit;
>
> *"A parcel of land situated at Sitio Banga, Barangay VI, Coron, Palawan, known and designated as Assessors Lot No. 065 and*

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[23] *Hilario v. Salvador*, 497 Phil. 327, 336 (2005).

[24] *Cadimas v. Carrion, et al.*, 588 Phil. 408, 420 (2008).

[25] *Reyes v. Hon. RTC of Makati, Br. 142, et al.*, 583 Phil. 591, 606-607 (2008).

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containing and area of 8,227 sq. meters more or less. Bounded on the North by Ass. Lot 037; on the East by Ass. Lot No. 002, Sec. 07; on the South, by Ass. Lot No. 066 and on the West; by Ass. Lot No. 064"

and declared for taxation purposes in the name of Remberto F. Lim as shown by a copy of Tax Declaration No. 006-0515-A hereto attache as Annex "B". As shown in the tax declaration, the land has an assessed value of ₱160,530.00;

4. That the above described parcel of land is a portion of that bigger parcel of land covered by Tax Declaration No. 006-0329-A copy is hereto attached as Annex "C" while the land covered by Tax Declaration No. 006-0329 is a portion of that bigger parcel of land covered by Tax Declaration No. 006-0100-A copy is hereto attached as Annex "D". All the abovementioned Tax Declarations are declared in the name of Remberto F. Lm.

5. *That the land covered by Tax Declaration No. 006-0100-A, where the land covered by Tax Dclaration No. 006-0515-A and Tax Declaration No. 006-0329-A originated, was previously owned, actually possessed, occupied and cultivated by [Socorro] Lim, deceased mother of deceased Remberto F. Lm.*

6. That as indicated on Tax Declaration No. 006-0100-A, a portion of the land described thereon is declared in the name of Jose Lim, brother of Remberto Lim, under TD 004-0104.

7. **That Jose Lim was [a]ble to secure a title in his name over a portion of he land covered by Tax Declaration No. 006-0100-A under OCT No. E-9487 copy of the title is hereto attached as Annex "E". As indicated in the Title[,] the area covered by the said Titles is 28,006 sq. meters and is designated as Lot F (045309)-2-D. Said area covered by the title in the name of Jose Lim is covered by TD No. 006-496-C copy is hereto attached as Annex "F". That cleared from OCT No. 9487 and TD No. 006-496-C, the land described thereon is bounded on the East and on the West by the properties claimed by the Heirs of Socorro Lim.**

8. That during the lifetime of Remberto F. Lim and one of his sons, Alan Lim, also deceased, they planted several seedlings of acacia manguim trees inside a portion of the land covered by TD No. 006-0100-A which acacia manguim trees were specifically planted on the land covered by TD No. 006-329-A which was cancelled by TD No. 006-0515-A as shown by a copy of the Tree Plantation Record Form

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(Annex "G"), and the Memorandum dated January 4, 1999 (Annex "H") and the Certificate of Registration (Annex "I") hereto attached.

9. That after the death of Alan Lim, who predeceased Remberto Lim, and the death of Remberto Lim, the herein Plaintiffs, as the only surviving legitimate wife and children respectively of Remberto Lim acquired, thru intestate succession, all rights, claims, ownership, participation, and interest that Remberto Lim has over the property covered by TD No. 006-0100-A which was cancelled by TD No. 006-329-A and which which was further cancelled by TD No. 006-0515-A as indicated on the said Tax Declaration.

10. That upon the death of Remberto Lim, his surviving heirs continued the actual possession, occupation, and cultivation of the subject parcel of land in the concept of an owner, open, public, adverse and against the whole world;

11. That for the meantime, Jose Lim sold the land covered by OCT No. E-9487 in favor of Dorothy Medalla and Alexander Medala and TCT No. 12496 was issued in their names copy of the same is hereto attached as Annex "J",

12. **That the new owners, Dorothy Medalla and Alexander Medalla caused the subdivision of the land they purchased from Jose Lim into two (2) lots and denominated as Lot 1 Psd-04-1346453 containing an area of 16, 415 sq. meteres and Lot 2 Psd-04-136453 containing an area of 11, 591 sq meters as shown by a copy of the approved subdivision plan hereto attached as Annex "K",**

13. **That clear from hereto attached subdivision plan Lot 1 Psd-04-136453 is bounded on the West by the land claimed by the heirs of Socorro Lim while Lot 2 Psd-04-134653 is bounded on the East by the land also claimed and owned by the heirs of Socorro Lim.**

14. That Dorothy Medalla and Alexander Medalla were issued titles for Lot 1 and Lot 2 both Psd-04-136453 as shown by a copy of TCT No. T-19582 and TCT No. 19583 respectively copies are hereto attached and marked as Annex "L" and "M" respectively;

15. That in order to show the relative position of Lot F (045309)-2-D, then titled in the name of Jose Lim under OCT No. E-9487, which was cancelled by TCT No. T-12496 in the names of Dorothy Medalla and Alexander Medalla, which was further cancelled by TCT No. 19582 and TCT No. 19583 both registered in the names of Dorothy

Medalla and Aleander Medalla, and the land owned/possessed and cultivated by Socorro Lim which was acquired, possessed, occupied, cultivated and owned by Remberto Lim, the heirs of Remberto Lim, the herein Plaintiffs, have commissioned Engr. Lopez, a licensed Geodetic Engineer, in order to make a Sketch/Special Plan and said Geodetic Engineer prepared a Sketch/Special Plan hereto attached as Annex "N";

16. **That clear from the herein attached Sketch/Special Plan is that Lot F (045309)-2-D, is bounded on the West by the land of Socorro Lim (which was then acquired by Remberto Lim and lately, upon his death by his surviving heirs, the Plaintiffs herein) and then next to the land owned by the plaintiffs is the existing road, the Mabentangan Road;**

17. That Dorothy Medalla and Alexander Medalla caused the subdivision of Lot 2 Psd-04-136453 into several smaller lots namely lots 2-A up to lot 2-1, inclusive, under Psd-04-186350 as shown by a copy of the plan hereto attached as Annex "O". Plaintiffs came to know the existence of said Plan only this year of 2010 when Defendant and her father, Stanley Martinez alias Stanley Lim Yu, with the help of other people, forcibly, unlawfully and by means of threat and intimidation entered into the land covered by TD No. 066-0515-A and once in illegal possession and occupation of the same unlawfully and illegally cut and fell down the acacia manguim trees planted by Allan Lim and Remberto Lim and were then growing thereon.

18. **That scrutiny of the hereto attached subdivision plan Psd-04-186350 of Lot 2 Psd-04-136453 covered by TCT No. T-19583 would clearly show that the said lot deviates from the actual position of the land as reflected and described in OCT No. E-6487 as cancelled by TCT No. 19583 because Lot 2 Psd-04-136453 under said plan Lot 2 Psd-04-136453 is bounded on the East by, the existing road and not by the land claimed by the Heirs of Socorro Lim;**

19. That Dorothy Medalla and Alexander Medalla sold to the herein Defendant Lot 2-D; Lot 2-E and Lot 2-F all under Psd-04-186350 and was issued titles on those lots under TCT No 065-2010000260, TCT No. 065-2010000259 and TCT No. 065-2010000261 as shown by copies of the titles hereto attached as Annexes "P" "Q" and "R" respectively;

20. That sometime on August 10, 2010, Defendant, thru her father, Stanley Martinez a.k.a. Stanley Lim Yu, and with the help and assistance

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of other people, by means of force, threat, intimidation and other cunning means entered into, occupied, possessed and encroached upon the property owned by the Plaintiffs covered by TD No. 006-0515-A which they acquired from deceased Remberto Lim and once in unlawful occupation and possession of the same knocked down, uprooted, cut and fell all the acacia mangium trees planted by Alan Lim and Remberto Lim to the great damage and prejudice of the plaintiffs;

21. That Defendant caused the fencing of the area with barbed wires as shown by copies of the pictures hereto attached Annexes "S", "S-1", "S-2", and "S-3" and placed thereon signs "NOTICE THIS [PROPERTY] IS OWNED BY THE MARTINEZ FAMILY" and "NO TRESSPASSING PRIVATE PROPERTY" copy of the pictures hereto attached as Annexes "T" and "U" respectively. Lately fence of stronger materials [were] placed thereon;

22. That although Defendant requested the Office of the CENRO, Coron, Palawan permission and authority to knock down, uproot and cut the acacia manuim trees growing on the land covered by TD No. 006-0515-A, however, her request was not acted upon favorably by that office and no permit was issued to her to cut, knock down and uproot the acacia manguim trees growing thereon nor permit her to transport was issued to her as shown by a copy of the Certification hereto attached as Annex "V",

23. That Plaintiffs, thru the undersigned counsel, sent a letter dated October 24, 2010 addressed to the Defendant demanding from her to remove the fence placed on the land of the Plaintiffs and to turn over its peaceful possession and occupation to them as shown by a copy of the letter hereto attached as Annex "W"; however Defendant failed and refused to remove the fence put thereon and to vacate the place.[26] (Bold emphasis supplied)

Based on the aforequoted allegations of the complaint, the decisive issue is whether or not the forcible entry case under Rule 70 was the proper remedy to resolve this controversy.

We rule that it is not.

A proper reading of the allegations of the complaint shows that the case revolved around the actual metes and bounds of

[26] *Rollo*, pp. 76-79.

the parties' respective properties. The complaint was anchored on the theory that the properties registered in three certificates of title issued in the name of the petitioner had erroneously included portions of the property covered by the tax declaration issued in the name of the respondents' predecessor in interest.[27]

In contrast, the petitioner hinged her right on the indefeasibility of her Torrens titles, and relied on the technical descriptions of the boundaries of her properties as stated by metes and bounds contained in her TCT No. 065-2010000259, TCT No. 065-2010000260 and TCT No. 065-2010000261.[28] Thus, her answer to the complaint relevantly represented:

> 13. It cannot be sufficiently underscored that, as specifically alleged in the complaint no less, the real properties subject matter of the instant complaint for forcible entry are actually registered in the name of the defendant, as borne out by TCTs Nos. 065-2010000259, 065-2010000260 and 065-2010000261, respectively, of the Registry of Deeds for the Province of Palawan.
>
> > 13.1 Parenthetically, the complaint admits in no uncertain terms that plaintiffs' putative ownership of the subject real properties is supported only by a mere Tax Declaration, which is not even in their names, but is supposedly in the name of plaintiffs' predecessor-in-interest, *viz*: Remberto F. Lim.[29]

It can be gleaned therefrom that the dispute essentially concerned the actual metes and bounds of their respective properties. Under such circumstances, the issue was really whether or not the petitioner's titles included the disputed portion.

The dispute did not primarily concern merely possessory rights, but related to boundaries, and could not be summarily determined. Nonetheless, the MCTC rendered its ruling based on its deduction that "a part of the property being claimed by

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[27] *Id.* at 224-225.

[28] *Id.* at 229.

[29] *Id.* at 89.

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the Heirs of Socorro Lim had been included in the lots that were titled in the name of the defendant." It held:

x x x x x x x x x

The first issue raised in the case at bar is whether or not the subject properties covered by TCTs Nos. 065-2010000259, 065-2010000260, and 065-2010000261 all in the name of the defendant have encroached upon, or have included property belonging to the plaintiffs covered under TD No. 006-0515.

x x x x x x x x x

Logically, from these set of evidences, it can be deduced that a part of the property being claimed by the Heirs of Socorro Lim had been included in the lots that were titled in the name of the defendant. This is because when the technical description over the titles of the defendant were issued, the boundary on the Eastern side that should have been in the name of the heirs of Socorro Lim no longer exists but is now bounded immediately by the road. Hence, plaintiffs have sufficiently established that as predecessors-in-interest, they have the right to claim and possess such part of the property of the defendant which should still be in the name of the heirs of Socorro Lim as originally reflected in the previous titles of the Medallas. As successor-in-interest of the Medallas, defendant could only acquire the property of the former (Medallas) which originally did not include that part of the property of the heirs of Socorro Lim and is now the subject of this dispute. Notedly, plaintiffs in this case are not claiming the whole property of the defendant but only that portion which should still belong to their predecessor-in-interest and is now covered by the titles in the name of the defendant.[30] (Emphasis supplied)

The foregoing ruling was plain error. What the MCTC should have quickly seen was that the dispute did not concern mere possession of the area *in litis* but the supposed encroachment by the petitioner on the portion of the respondents. In other words, the question focused on whether the property being claimed and occupied by the petitioner had really been part of her registered properties, or of the respondents' property.[31] The

[30] *Id.* at 227-224.

[31] *Manalang, et al. v. Bacani, et al.*, 750 Phil. 25, 35 (2015).

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proper resolution of such dispute in favor of the respondents could be had only after a hearing in which the trial court was enabled through preponderant proof showing that, indeed, the disputed area was *not within* the metes and bounds appearing and stated in the TCTs of the petitioner.

We reiterate that a boundary dispute cannot be settled summarily through the action for forcible entry covered by Rule 70 of the *Rules of Court*. In forcible entry, the possession of the defendant is illegal from the very beginning, and the issue centers on which between the plaintiff and the defendant had the prior possession *de facto*.[32] If the petitioner had possession of the disputed areas by virtue of the same being covered by the metes and bounds stated and defined in her Torrens titles, then she might not be validly dispossessed thereof through the action for forcible entry. The dispute should be properly threshed out only through *accion reivindicatoria*. Accordingly, the MCTC acted without jurisdiction in taking cognizance of and resolving the dispute as one for forcible entry.

Given the foregoing, the CA committed reversible error in affirming the judgments of the lower courts, and in ordering the summary ejectment of the petitioner from the disputed area.

Considering that the remedy availed of by the respondents as the plaintiffs was improper, the Court need not discuss and settle the other issues raised by the petitioner.

WHEREFORE, the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated on March 20, 2017 by the Court of Appeals; **DISMISSES** the complaint for forcible entry without prejudice to the filing of the proper action; and **ORDERS** the respondents to pay the costs of suit.

SO ORDERED.

Perlas-Bernabe, Jardeleza, Gesmundo, and *Carandang, JJ.*, concur.

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[32] *Id.*