

**MR PEDRO A. VELASCO, DMO IV**  
**OIC-CENRO-P.P.C.**  
Barangay Sta. Monica  
Puerto Princesa City

Dear Sir,

Greetings!

This is in connection with the Decision of the Municipal Trial Court in Cities, 4<sup>th</sup> Judicial Region, Puerto Princesa City, Branch 1, dated April 11, 2022 entitled SPS. ANDREAS FERDINAND DARTMANN AND ROSALIE D. DARTMANN AND SPS. PATRICIO ABOROT AND LETECIA ABOROT, Rep. by Efren Aborot, Plaintiffs vs. DANDINO BALDERA SR, Defendants, ET. AL. under Civil Case No. 2393 for FORCIBLE ENTRY WITH DAMAGES WITH PRAYER FOR THE ISSUANCE OF PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER, ordering the Defendants to vacate Lot No. 20787 Cad 800-D and turn over possession of the same to Plaintiffs.

Please be informed that the Decision has become final and executory on May 4, 2022, entered in the Book of Entries of Judgement and a CERTIFICATE OF FINALITY has been issued on May 25, 2022 by the Clerk of Court III Gisselle Marie P. Panes. (Please see attached documents)

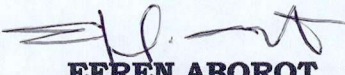
In view of the above, may we request that said Lot No. 20787 Cad 800-D be registered as per agreement of the parties as cited in the court Decision, to wit;

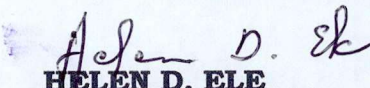
1. Sps. Andreas Dartmann and Rosalie D. Dartmann, covering an area of Forty-Three Thousand, One Hundred Forty-One (43,141) Square Meters and
2. Sps. Patricio Aborot and Letecia Aborot, covering Thirty-Five Thousand, Three Hundred Ten (35,310) Square Meters,

Further, may we request that the same be entered in the Book of Records of the CENRO, Puerto Princesa City for the information of the other party or any party who would like to lay claim on the property and all application for registration, for issuance of free patent, for transfer rights and interests and processing of all other similar documents for claims over Lot No. 20787 Cad 800-D be immediately stop for reasons cited above.

Hoping for your reply.

Respectfully yours,

  
**EFREN ABOROT**  
Attorney-In-Fact  
Sps. P. and L. Aborot

  
**HELEN D. ELE**  
Attorney-In-Fact  
Sps. A. and R. Dartmann

Copy furnished:

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PENRO  
Sta. Monica  
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2. Ms. Lormelyn E. Claudio, CESO IV  
Regional Executive Director  
15 L & S Building  
Roxas Blvd.  
Ermita Manila

September 12, 2022

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PUERTO PRINCESA  
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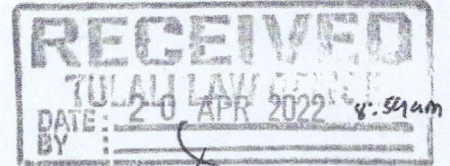
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Republic of the Philippines  
4<sup>th</sup> Judicial Region  
MUNICIPAL TRIAL COURT IN CITIES  
Puerto Princesa City



SPOUSES ANDREAS FERDINAND  
and ROSALIE D. DARTMANN and  
SPOUSES PATRICIO ABOROT and  
LETECIA ABOROT, Represented by  
EFREN ABOROT,

Plaintiffs,

-versus-

DANDINO BALDERA SR.,  
DANDINO BALDERA JR.,  
NICANOR BALDERA,  
JASON BALDERA,  
AURORA BALDERA,  
CARLITO BALDERA,  
SHERWIN BALDERA and  
RICKY BALDERA,

Defendants.

X-----X

CIVIL CASE NO. 2393

For: Forcible Entry with Damages  
With Prayer for the Issuance of  
Preliminary Injunction and/or  
Temporary Restraining Order

**DECISION**

In this case for Forcible Entry with Damages with Prayer for the Issuance of Preliminary Injunction and/or Temporary Restraining Order, the Plaintiffs, Spouses Andreas Ferdinand and Rosalie D. Dartmann and Spouses Patricio and Letecia Aborot, represented by Efren Aborot, seek to eject the defendants Dandino Baldera Sr., Dandino Baldera Jr., Nicanor Baldera, Jason Baldera, Aurora Baldera, Carlito Baldera, Sherwin Baldera and Ricky Baldera from a parcel of land located at Sitio Sabang, Bgy. Cabayugan, Puerto Princesa City identified as Lot No. 20787 Cad-800-D and to collect from them monthly rentals for the use and occupation of the subject property and payment of moral, exemplary and actual damages, and reimbursement of attorney's fees and litigation expenses.

In their Complaint, the Plaintiffs allege that they are the actual occupants and claimants of the property located at Sitio Sabang, Bgy. Cabayugan identified as Lot No. 20787 Cad-800-D consisting of a total area of 73,141 square meters, as attested to by the Punong Barangay of Bgy. Bacungan in the barangay certifications dated 2 February 2021 (Annexes B and C of the Complaint). The



whole of Lot 20787 was previously owned and occupied by Antonio Baldera, uncle of the defendants. Antonio Baldera sold portions of the property to the Spouses Aborot and to Rosalie Dartmann. The Aborot spouses bought a portion of about 5 hectares on May 9, 1991 as evidenced by a notarized Deed of Absolute Sale of a Portion of Land (Annex D). After acquiring the property, the Aborot spouses have since continuously and exclusively occupied the property purchased, constructed their house thereon and cultivated the rice fields. Rosalie Dartmann, for her part, bought the other portion of Lot 20787 consisting of an area of about 4.3141 hectares, including the house lot, from Antonio on October 8, 1996 in a notarized Waiver of Rights and Improvements (Annex E of Complaint). Prior to their purchase of the portion of Lot 20787, the Dartmann spouses were already occupying and were in possession of the three adjoining lots – Lot Nos. 20814, 20875 and 20795. They constructed their house thereon, which they turned into a guest/lodging house for tourists. The entire land which all the plaintiffs are occupying are shown in a consolidated sketch plan (Annex F of Complaint). Lot No. 20814 was first acquired by the Dartmanns from Antonio Baldera on August 21, 1991 by virtue of a waiver of rights in favour of the Aleman-Filipino Corporation, a domestic corporation chaired by Andreas Ferdinand Dartmann (Transfer of Rights and Interests by Antonio Balderas, Annex G). Later, Antonio sold the remaining portion of Lot 20787 to the Dartmann spouses because it was adjacent to Lot 20814. Immediately after Rosalie acquired that portion, the Dartmann spouses took possession of that lot and introduced improvements thereon, extending their guest house which they registered under the business name “Bambua Lodge and Restaurant” (Mayor’s Permit, DTI Registration and BIR Registration as Annexes H-1, H2 and H3). They also converted the 300 square-meter portion formerly occupied by Antonio’s house into the parking lot. Although the entire Lot No. 20787 had already been sold to the plaintiffs, the Tax Declaration over the land remained in the name of Antonio Baldera because the Dartmann spouses and Aborot spouses had not yet subdivided the property between themselves. Nevertheless, the Dartmann spouses have been paying for the real estate taxes on Lot 20787 since 1996 under Tax Declaration No. 008-2791 as shown by the official receipts and tax clearance (Annexes I, J to J-7 and K). Sometime in July 2020, Marvin Dartmann, Christopher Cnet and Ranier Gebelaguin, staff working at Bambua Lodge, noticed billows of smoke coming near the guesthouse. They checked the source of the smoke and were surprised to see the defendants Dandino Jr., Carlito, Jason, Nicanor, Aurora, Sherwin and Ricky, all surnamed Baldera, clearing the area and burning the leaves and branches of trees which they had felled. They identified the defendants as children of Dandino Baldera Sr., brother of Antonio Baldera. Due to the vastness of the area and of its vegetation, the plaintiffs failed to notice and stop the defendants’ illegal entry and intrusion into the land. Marvin confronted the defendants and told them that they were trespassing in their property. However, the defendants replied that the property belonged to their late



uncle and that the same was inherited by their father, Dandino Sr. Marvin explained that the property had been purchased by his parents from Antonio in 1996 and that they had documents to prove it. On July 8, 2020, the plaintiffs received Summons (Patawag)(Annex M) from the barangay for a Complaint (Sumbong)(Annex L) filed on said date against them and another adjoining lot owner by the defendants. During the barangay proceedings, the plaintiffs Dartmann showed the defendants the notarized Waiver of Rights and Improvements signed by Antonio Baldera dated 8 October 1996 and the official receipt for their payment of taxes. The plaintiffs Aborot also showed the Deed of Sale signed by Antonio Baldera in their favour. Nonetheless, the defendants insisted on their claim, relying solely on the tax declaration of their uncle. The defendants were issued an endorsement to file action, but no action was filed by them in court against the plaintiffs. However, sometime in September 2020, Christopher Cnet heard noises of construction not far from the guesthouse. Andreas Dartmann, Marvin, Rainier and Christopher checked out the area and were surprised to see the defendants, together with hired workers clearing the area and constructing a house (as seen in photographs, Annexes N and N-1). Marvin also saw that the concrete monuments in the boundary of their property had been removed. Andreas Dartmann filed a complaint against the defendants before the barangay. While barangay proceedings were ongoing, the defendants continued to expand their clearing until they reached the area occupied and controlled by the Aborot spouses. Upon discovery of the defendants' intrusion on their property, Efren Aborot, son of Patricio and Letecia wrote a letter to the Punong Barangay of Bgy. Cabayugan on November 6, 2020 to report and complain about the incident (Letter, Annex O and Barangay Blotter dated November 23, 2020, Annex P). The parties failed to reach a settlement, hence the barangay issued the Katibayan Upang Makadulog sa Hukuman to plaintiffs (annexes Q and R). As their Second Cause of Action, plaintiffs claimed that defendants should be made to pay them moral damages because of the anxiety, stress and sleeplessness, depression and weight loss caused to Rosalie Dartmann by the defendants' intrusion as shown by her medical and hospital bills, Annexes S and T). Andreas also suffered a stroke because of his worry and is now undergoing therapy. The acts of defendants caused Patricio and Letecia Aborot mental anguish, emotional distress and sleepless nights. Thus, defendants should pay the plaintiffs moral damages in the amount of Php50,000.00. To serve as example so that others would not imitate the defendants, plaintiffs claim exemplary damages in the amount of Php50,000.00. Having been deprived of the beneficial use of their respective properties by the defendants, plaintiffs claim payment of rentals in the amount of Php5,000.00 per month for each plaintiff from the date of their intrusion until finally evicted from the land. Due to the defendants' removal of the concrete monuments, the plaintiffs were compelled to hire a geodetic engineer to conduct a relocation survey for which they paid Php40,000.00, which should be charged to the defendants. To institute this case, the plaintiffs were constrained



to hire the services of counsel for which they paid attorney's fees of Php50,000.00; and to spend for filing fees and other litigation expenses which the defendants must reimburse to them. For their third cause of action, plaintiffs applied for the issuance of a Temporary Restraining Order (TRO) and Writ of Preliminary Injunction to restrain the defendants from offering the land for sale to other parties using the Tax Declaration in the name of Antonio Baldera; and from occupying the property and cutting timber thereon. The plaintiffs prayed for judgment: adjudging the defendants to have forcibly entered and occupied the property of the plaintiffs; ordering the defendants or any or their representatives, members of families, agents, privies or persons acting for and in their behalf, to immediately vacate the premises of the property subject of this case; ordering the defendants, solidarily, to pay each of the plaintiffs the amount of Php50,000.00 as moral damages, Php50,000.00 as exemplary damages; Php5,000.00 per month as monthly rental for the use of their respective properties; Php62,000.00 as reimbursement of the relocation survey expenses; and the reimbursement of attorney's fees and litigation expenses. The plaintiffs also prayed for a writ of Preliminary Injunction to order the defendants to stop any further acts of intrusion over the property and any act of sale or disposition of the subject land; and after hearing on the merits, for an order permanently enjoining the defendants from occupying the land and selling the property subject of this case.

The defendants filed an Answer with Counter-claim, admitting the personal circumstances of plaintiffs and defendants with the qualification that defendant Nicanor Balderas is no longer a resident of Sitio Sabang, Bgy. Cabayugan; that plaintiffs are occupying only a portion of the subject property, Lot No. 20787 Cad-800-D; that the whole of Lot No. 20787 was formerly owned by Antonio Baldera, uncle of the defendants except for a portion which Antonio had sold to plaintiffs Dartmann spouses; that the defendants had caused summons to be issued by Bgy. Cabayugan to the plaintiffs on July 8, 2020 in order to inform them that they would be conducting a relocation survey to determine the remaining area of Lot 20787; further, defendants admitted that after the survey, they entered into and occupied a portion of Lot 20787. Defendants denied that a portion of Lot 20787 was sold by Antonio Baldera to the Aborot spouses; that Rosalie Dartmann bought a 4.3141-hectare portion from Antonio on 8 October 1996; and the rest of the allegations of the Complaint. Defendants deny that they had entered into the subject property through strategy and stealth, as in fact this was not even mentioned in the Complaint. By way of Special/Affirmative Defenses, the defendants allege that the Complaint lacks cause of action and is baseless. There is no allegation that the entry of defendants into the subject property was with strategy and stealth, which is jurisdictional and failure to allege the same is a ground for dismissal of the case. The plaintiffs had prior knowledge before the defendants entered into the property that they would do so because they had them summoned before the Barangay beforehand. Moreover, the



plaintiffs were not deprived of possession because they are in possession of the subject property until the present. Plaintiffs Aborot spouses have no right over the subject property and no cause of action because the Deed of Absolute Sale to them is a falsified document. By way of counter-claim, the defendants allege that they suffered sleepless nights due to this baseless, unfounded and malicious Complaint intended merely to harass them, for which they should be compensated by way of moral damages in the amount of Php50,000.00 each; that to serve as deterrent to others, plaintiffs should be made to pay them Php25,000.00 each as exemplary damages; that they were compelled to litigate and to hire the services of counsel and agreed to pay him Php50,000.00 plus appearance fees of Php2,000.00 per hearing and would incur litigation expenses of at least Php30,000.00. Defendants prayed for the dismissal of this case for lack of cause of action; and for payment to them by plaintiffs of moral damages of Php50,000.00 and exemplary damages of Php25,000.00; attorney's fees of Php50,000.00 plus appearance fees and litigation expenses of at least Php30,000.

These facts are not in dispute: the property subject of this case is Lot No. 20787 Cad-800-D consisting of 73,141 sq. meters located at Sitio Sabang, Bgy. Cabayugan, Puerto Princesa City. This lot was formerly owned and occupied by the late Antonio Baldera, who died on September 27, 2010. He is the brother of defendant Dandino Baldera Sr. and the uncle of the other defendants. Up to the present, the Tax Declaration of this property is still in the name of Antonio Baldera under T.D. No. 008-2791 (Exh. M). During his lifetime, Antonio had sold a portion of the subject property to the plaintiffs Dartmann spouses in 1996. The Aborot spouses also claim that Antonio had sold another portion of that lot to them in 1991. Thus, the plaintiffs Dartmann spouses and Aborot spouses have occupied and are claiming ownership of the whole of lot Lot 20787. In July 2020, the defendants, with the exception of Nicanor Baldera, entered into a portion of the subject property and cleared the same. On July 8, 2020, the defendants caused summons to be issued by Bgy. Cabayugan to the plaintiffs, in order to confirm the size of the area purchased by plaintiffs from Antonio Baldera. In the meantime, the defendants have expanded their cleared area and built structures on the area in September 2020 and have resisted the demand by plaintiffs to vacate the property. Defendants are claiming that they have prior right of possession over the subject property as heirs of Antonio Baldera. Barangay proceedings were initiated by the plaintiffs against the defendants but no settlement was reached, hence this case for Forcible Entry has been filed.

The issues in this case are: whether or not the plaintiffs were in prior possession of the subject property; whether or not the defendants illegally entered into the subject property in July and September 2020 with the use of force, intimidation, strategy and stealth; whether or not the defendants are still



occupying the portions entered into; whether or not the defendants should be summarily ejected from the subject property.

Before discussing the above issues, the court first considers a procedural matter raised by defendants in the Answer and in their Position Paper, regarding an alleged defect in the Complaint which would render the same susceptible to dismissal for lack of cause of action. Defendants allege that the Complaint should be dismissed outright for failure to state a cause of action because there is no allegation therein that the defendants had entered into the subject property through strategy and stealth. The court holds however, that the allegations of the Complaint sufficiently vest the court with jurisdiction to try the case as one for Forcible Entry.

In the case of *Vencilao vs. Camarenta* [29 SCRA 473,479 (1969)], the Supreme Court laid down the rule that:

*"If the complaint shows that the plaintiff had prior possession of the premises and that within the period of one year he has been deprived thereof by a trespasser, who excludes him and withholds possession without right, the action must be considered to be within the jurisdiction of the justice of the peace, for the purpose of restoring the plaintiff to possession, regardless of any claims of ownership put forth by either party, provided the prayer of the complaint is limited to such relief."*

And in the case of *Leonardo David vs Cordova*, GR No. 152992, July 28, 2005, the Supreme Court enumerated the necessary allegations for a valid complaint for Forcible Entry:

*"In actions for forcible entry, the law tells us that two allegations are mandatory for the municipal court to acquire jurisdiction: First, the plaintiff must allege prior physical possession of the property. Second, he must also allege that he was deprived of his possession by any of the means provided for in Section 1, Rule 70 of the Rules of Court."*

The court finds that the Complaint in this case sufficiently alleges that the plaintiffs had prior physical possession of Lot 20787, and the defendants deprived them of their possession by entering into the same, clearing it and occupying it despite the protest of plaintiffs. It is not mandatory for the Complaint to use the exact terminology used in the Rules of Court, as long as the facts alleged establish plaintiff's prior possession and deprivation by use of force, intimidation, strategy or stealth. As further stated by the Supreme Court in the above-mentioned case of *David vs. Cordova* (*supra*):



*It is not necessary that the complaint allege, in the language of the statute, that the person has been deprived of his possession by force, intimidation, threat, strategy or stealth. However, the plaintiff in an action of desahucio must set up in his complaint facts which show that he had prior physical possession of the property and that he was deprived of such possession by reason of force, intimidation, threat, strategy or stealth. Xx x*

*David's prior physical possession of the subject property and deprivation thereof are clear from the allegation that he is the owner of the subject property which the Cordovas forcibly entered, of which he was unlawfully turned out of possession and for which he prays to be restored in possession. The acts of the Cordovas in unlawfully entering the land, erecting a structure thereon and excluding therefrom the prior possessor would also imply the use of force. In order to constitute force, the trespasser does not have to institute a state of war. The act of going on the property and excluding the lawful possessor therefrom necessarily implies the exertion of force over the property and this is all that is necessary. Thus, the foregoing averments are sufficient to show that the action is based upon the proviso of Section 1, Rule 70 of the Rules of Court."*

The court thus finds no basis to declare that the allegations of the Complaint are insufficient to establish a cause of action for Forcible Entry.

Moving on to the first issue, the court finds that plaintiffs have sufficiently proven that they were in prior possession of Lot 20787 at the time that the defendants entered into the same. Both plaintiffs Dartmann spouses and Aborot spouses have presented proof of their purchase of portions of Lot No. 20787 from Antonio Baldera (which, when taken together comprise the whole area of said Lot), and their occupation of the purchased portions long before the entry of defendants in July 2020.

The spouses Patricio and Letecia Aborot acquired a portion of Lot 20787 from Antonio Baldera by virtue of a Deed of Sale dated May 9, 1991 (Exh. D1), whereby Antonio conveyed to them a 5-hectare portion of Lot 20787. The Aborot spouses, however, occupied only a 30,531 sq. meter portion after they entered into an agreement with the Dartmanns that the latter would occupy a 4.3141 portion of the lot. The Aborots have maintained a rice field on said property while their son Efren Aborot has a bodega built thereon which was already existing and in use at the time of the entry of defendants into the subject lot.

Plaintiffs Dartman spouses have proven that they purchased a portion of 4.3141 hectares from Antonio Baldera on October 8, 1996 through a notarized



Waiver of Rights and Improvements executed in their favour by Antonio (Exh. E), upon which they occupied the portion purchased. Before they bought this portion, they had already purchased and were occupying the adjacent and surrounding properties, namely Lots 20785, 20795 and 20814 (Consolidated Sketch Plan, Exh. G). The Dartmanns started occupying Lot 20814 in 1991 after Antonio Baldera sold the same to the Aleman-Filipino Corporation (chaired by Andreas Dartmann) through a notarized Transfer of Rights and Interests Over Improvements on a Certain Portion of a Parcel of Public Land dated August 21, 1991 (Exh. H). In the same document marked as Exh. E for a portion of Lot 20787 executed on October 8, 1996 (Waiver of Rights and Improvements), Antonio also sold to Rosalie Dartmann a 300-sq. meter portion of Lot 20814 where his house was located, for an additional Php4,500.00, to enable the Dartmanns to occupy the whole of Lot 20814. The Dartmanns also purchased from other owners the adjoining properties, Lots 20785 and 20795 (Exh. I).

There is also sufficient proof that the Dartmanns have been occupying the subject property from the time of its sale to them and up to the present. They established a lodging and restaurant business on said lot under the name Bambua Lodge and Restaurant as shown by the Mayor's Permit dated January 24, 2017 (Exh. K), and the DTI Certificate of Business Name Registration issued on 10 January 2014 (Exh. K-1). They have been paying Real Estate Taxes to the City Government of Puerto Princesa for subject property under Tax Declaration No. 008-2029 as shown by the Official Receipts issued by the City Government for the years 2012 to 2020 (Exhs. J to J7); and the Real Property Tax Clearance dated February 1, 2021 (Exh. L). As noted by the Supreme Court in the case of *Mangaser vs. Ugay*, GR No. 204926 (December 3, 2014), "*no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession*".

As pointed out by the plaintiffs in their Position Paper, the defendants do not actually contest the material possession of the subject property by the plaintiffs, as shown by Par. 4 of their Answer wherein it is alleged that "*defendants partially admit the allegations contained in paragraph 4 because the truth of the matter is that the Plaintiffs only occupy portions of the property subject of this case*". In fact, the defendants do not deny that they had requested Bgy. Cabayugan to summon the plaintiffs for the purpose of informing them that they were going to conduct a relocation survey of Lot 20787 in order to determine the area occupied by the plaintiffs. However, the defendants have not presented any proof that the supposed relocation survey resulted in a showing that there were in fact portions not occupied by the plaintiffs, and if there were any, there is no proof either that it was the defendants who were occupying those areas before July 2020.



Defendants instead question the authenticity and validity of the deed of sale of a portion of Lot 20787 to the Aborot spouses, pointing out that said Deed of Absolute Sale of a Portion of Land by Antonio Baldera dated May 9, 1991 but notarized on June 10, 2011 (Exh. D/ Exh. 3) was a falsified document because Antonio had already passed away on September 27, 2010 (Certificate of Death, Exh. 4). Defendants further claim that the alleged sale of a 5-hectare portion to the Aborots would be inconsistent with the sale of a 4.3141-hectare portion to the Dartmanns, considering the fact that the total area purportedly sold would exceed the total area of Lot No. 207787 which has an area of only 7.3141 hectares.

The court notes, however, and as shown by the unnotarized copy (Exh. D-1), that the Deed of Absolute Sale itself bears the date May 9, 1991, during which Antonio Baldera was still living, and it was only the notarization which was done after his death. It is well-settled that an unnotarized deed of sale would still be a valid instrument which would be binding upon the parties. As held in the case of *Chong v. Court of Appeals*, 554 Phil . 43, 61-62 (2007), cited in the case of *Diampoc vs. Jessie Buenaventura et al.*, GR No. 200383, March 19, 2018:

*"x x x the defective notarization of the deed does not affect the validity of the sale of the house. Although Article 1358 of the Civil Code states that the sale of real property must appear in a public instrument, the formalities required by this article is not essential for the validity of the contract but is simply for its greater efficacy or convenience, or to bind third persons, and is merely a coercive means granted to the contracting parties to enable them to reciprocally compel the observance of the prescribed form. Consequently, the private conveyance of the house is valid between the parties."*

Moreover, the apparent discrepancy between the size of the area sold to the Dartmanns and that sold to the Aborots appears to have been resolved by the two buyers between themselves, with the Aborots limiting their occupation to an area of only 3.531 hectares, and leaving the rest of the property to the possession of the Dartmanns, as certified on by the Punong Barangay of Bgy. Cabayugan (Exhs. B and C). The sale to the plaintiffs of area exceeding the size of Lot 20787 would even imply that the whole of said lot is now occupied by both plaintiffs-spouses, with no space left unoccupied for the defendants to claim for themselves.

At any rate, even assuming that there was an irregularity in the sale of the property to the Aborots, what is at issue in this case for Forcible Entry is not the ownership of the subject property but the material occupation of the same by the plaintiff which was disturbed by the defendants through force, intimidation, strategy or stealth.



*"The only question that the courts must resolve in ejectment proceedings is - who is entitled to the physical possession of the premises, that is, to the possession de facto and not to the possession de jure. It does not even matter if a party's title to the property is questionable, or when both parties intruded into public land and their applications to own the land have yet to be approved by the proper government agency. Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession." (Pajuyo vs. Court of Appeals, et al., GR No. 146364, June 3, 2004)*

As earlier noted by the court, the plaintiffs have, by preponderance of evidence, proven their material occupation of the subject property long before the entry thereon by the defendants in July 2020.

On the second and third issues, the plaintiffs have presented witnesses to prove the entry of the defendants into the subject property sometime in July and September 2020. Christopher Cnit and Ranier Gebelaguin, both maintenance staff of the Bambua resort, stated under oath in their Judicial Affidavits that they discovered the entry of the defendants into the subject property sometime in September 2020 when they heard the sound of construction somewhere in the forested portions of Lot 20787. and when they investigated this together with Marvin Dartmann, son of the plaintiffs-spouses, they discovered the defendants Dandino Jr., Carlito Baldera, Jason Baldera, Sherwin Baldera and Ricky Baldera clearing an area within the lot and building a hut. Marvin Dartmann corroborated this account through his Judicial Affidavit, and further stated under oath that he then warned the defendants that the Dartmanns owned the area which the defendants were clearing and constructing on. Marvin took photographs of the hut which was being constructed (Exhs. N and N1). The defendants answered that they owned that area because they had inherited the same from their uncle Antonio Baldera. Efren Aborot also testified through his Judicial Affidavit that he often visited the property of his parents where they were maintaining fruit trees, rice fields and a bodega. In November 2020, when he visited their property, he discovered that the Balderas had entered into their portion and built a hut thereon. The defendants continued to expand the area they were clearing and occupying despite the institution of barangay proceedings against them by the plaintiffs.

The defendants do not even deny that they had entered into the subject property, but allege that they were only clearing property which they inherited from Antonio Baldera, and their entry was not through strategy and stealth, as they had informed the plaintiffs beforehand, through the Barangay Proceedings



they initiated on July 8, 2020, that they were about to cause the conduct of a relocation survey to determine the boundaries of Lot 20787 and to find out which portions were occupied by the plaintiffs.

The plaintiffs admit that the defendants had caused them to be summoned by the barangay on July 8, 2020 in connection with the subject property. While plaintiffs claim that they discovered the entry of defendants in July 2020, the witnesses who testified through their Judicial Affidavits (Efren Aborot, Christopher Cnit and Ranier Gebelaguin and Marvin Dartmann) all mentioned an incident which took place in September 2020, as the time of their discovery of the illegal entry of defendants. Nonetheless, the court finds that the entry of the defendants constitutes Forcible Entry.

The defendants have not proven any legal basis for their supposed right to occupy Lot 20787. They have not proven that they indeed inherited said property from Antonio Baldera, while the plaintiffs have proven, through the appropriate instruments, that Antonio had sold the entire property to the plaintiffs during his lifetime, and it could no longer form part of his estate. Even assuming that defendants inherited some portions, they have not proven that it was they who had prior material occupation of those portions. Moreover, the defendants have not even presented the results of their alleged relocation survey, which would supposedly prove that there are portions of Lot 20787 which were not sold to nor occupied by the plaintiffs. The defendants do not even claim that they informed the plaintiff of their actual entry into the property and their construction of a hut in September 2020. It is noted that the presence of defendants was only noticed by the workers of the Dartmanns when they noticed the smoke amidst the thick vegetation (Exhs. O and O1) and the sound of clearing and construction. Thus, the defendants cannot claim that their entry was not through force, strategy or stealth.

*For a forcible entry suit to prosper, the plaintiffs must allege and prove: (a) that they have prior physical possession of the property; (b) that they were deprived of possession either by force, intimidation, threat, strategy or stealth; and, (c) that the action was filed within one (1) year from the time the owners or legal possessors learned of their deprivation of the physical possession of the property." (Mangaser vs. Ugay, supra)*

Finding that plaintiffs have proven, by preponderance of evidence that defendants deprived them of possession of the subject property through force and strategy sometime in July to September 2020 and up to the present for which plaintiffs pray for their ejectment from the premises; and noting that the case for Forcible Entry was filed on April 5, 2021 less than a year from discovery of the



the defendants should be ejected from the subject premises, pursuant to Rule 70, Secs. 1 and 17.

The court further orders the defendants to pay the Dartmann spouses and Aborot spouses a reasonable compensation for their use and occupation of the premises at the rate of One Thousand Pesos (Php1,000.00) each couple per month from the time of filing of this case until finally vacated. Other claims for damages are denied, considering the fact that damages in the context of Rule 70 is limited to rent or fair market value for the use and occupation of the property (*Car Cool Phils. Inc. et al. vs. Ushio Realty and Dev't Corp.*, GR No. 138088, January 23, 2006).

The defendants are further ordered to pay the plaintiffs attorney's fees of Php10,000.00, considering the fact that defendants' illegal entry into plaintiffs' properties compelled them to litigate in order to protect their rights as landowners.

Wherefore, premises considered, the court hereby renders judgment:

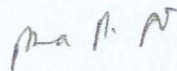
1. Ordering defendants Dandino Baldera Sr., Dandino Baldera Jr., Jason Baldera, Aurora Baldera, Carlito Baldera, Sherwin Baldera and Ricky Baldera, their family members and other privies, agents, successors-in-interest or persons occupying the subject premises with the permission of defendants, to vacate Lot No. 20787 Cad-800-D and turn-over possession of the same to plaintiffs;

2. Ordering said defendants, solidarily, to pay reasonable rentals at the rate of One Thousand Pesos (Php1000.00) per month to spouses Andreas Ferdinand and Rosalie Dartmann; and One Thousand Pesos (Php1,000.00) per month to spouses Patricio and Letecia Aborot, from judicial demand on April 5, 2021 until finally vacated; and to pay plaintiffs attorney's fees in the amount of Ten Thousand Pesos (Php10,000.00).

The case is dismissed as to Nicanor Baldera.

IT IS SO ORDERED

Puerto Princesa City, April 11, 2022

  
**MA. ROWENA P. SOCRATES**  
Judge



Republic of the Philippines  
MUNICIPAL TRIAL COURT IN CITIES  
4th Judicial Region  
Puerto Princesa City  
Branch 1

SPS. ANDREAS FERDINAND DARTMAN  
AND ROSALIE D. DARTMAN AND  
SPS. PATRICIO ABOROT AND LETECIA  
ABOROT, Rep. by Efren Aborot,

Plaintiff,

CIVIL CASE NO. 2393

-versus-

for

DANDINO BALDERA, SR.  
ET. AL.

Defendants.

x-----x


FORCIBLE ENTRY WITH DAMAGES  
WITH PRAYER FOR THE ISSUANCE  
OF PRELIMINARY INJUNCTION  
AND/OR TEMPORARY RESTRAINING  
ORDER

CERTIFICATE OF FINALITY

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that the Decision dated April 11, 2022 in the above entitled case has become final and executory on May 4, 2022 there being no appeal taken therefrom.

Issued upon request of Ms. Nicole Tulali for whatever legal purpose it may serve.  
Puerto Princesa City, this 25<sup>th</sup> day of May, 2022.

  
GISSELLE MARIE P. PANES  
Clerk of Court III

Copy furnished:

Atty. Regidor B. Tulali

Sps. Andreas Ferdinand Dartman  
And Sps. Patricio Aborot and  
Letecia Aborot  
Rep.by: Efren Aborot  
Purok Dalampasigan-1, Sitio Sabang  
Barangay Cabayugan, PPCity

Atty. Joseph L. Pardian, Jr.

Dandino Baldera, Sr. et. al  
Sitio Sabang, Bgy. Cabayugan, PPCity



Republic of the Philippines  
**MUNICIPAL TRIAL COURT IN CITIES**  
4<sup>th</sup> Judicial Region  
Puerto Princesa City  
Branch 1

SPS. ANDREAS FERDINAND DARTMAN  
AND ROSALIE D. DARTMAN AND  
SPS. PATRICIO ABOROT AND LETECIA  
ABOROT, Rep. by Efren Aborot,

Plaintiff,

CIVIL CASE NO. 2393

-versus-

for

DANDINO BALDERA, SR, ET. AL.,  
Defendants.

x-----x

FORCIBLE ENTRY WITH DAMAGES  
WITH PRAYER FOR THE ISSUANCE  
OF PRELIMINARY INJUNCTION  
AND/OR TEMPORARY RESTRAINING  
ORDER

**ENTRY OF JUDGMENT**

I, GISSELLE MARIE P. PANES, Clerk of Court III of the Municipal Trial Court in Cities, Branch 1, Fourth Judicial Region, Puerto Princesa City, Palawan , do hereby certify that on April 11, 2022, a Decision issued/ rendered by Hon. Maria Rowena P. Socrates, Presiding Judge, Municipal Trial Court in Cities, Branch I Puerto Princesa City in the above-entitled case was filed in this office, the dispositive portion of which is hereunder quoted as follows:

*Wherefore, premises considered, the court hereby renders judgment:*

- 1. Ordering defendants Dandino Baldera Sr., Dandino Baldera Jr., Jason Baldera, Aurora Baldera, Carlito Baldera, Sherwin Baldera and Ricky Baldera, their family members and other privies, agents, successors-in-interest or persons occupying the subject premises with the permission of defendants, to vacate Lot No. 20787 Cad-800-D and turn-over possession of the same to plaintiffs;*
- 2. Ordering said defendants, solidarily, to pay reasonable rentals at the rate of One Thousand Pesos (Php1000.00) per month to spouses Andreas Ferdinand and Rosalie Dartman; and One Thousand Pesos (Php1,000.00) per month to spouses Patricio and Letecia Aborot, from judicial demand on April 5, 2021 until finally vacated; and to pay plaintiffs attorney's fee in the amount of Ten Thousand Pesos (Php10,000.00).*



Civil Case No. 2393

Entry of Judgment

Page No. 2

X-----X

The case is dismissed as to Nicanor Baldera

***IT IS SO ORDERED.***

and that the same has, on May 4, 2022 become FINAL and executory and is hereby entered in the Book of Entries of Judgment.

Puerto Princesa City, this 23<sup>rd</sup> day of May, 2022.

**GISSELLE MARIE P. PANES**

Clerk of Court III

Copy furnished:

Atty. Regidor B. Tulali

Sps. Andreas Ferdinand Dartman

And Sps. Patricio Aborot and

Letecia Aborot

Rep. by: Efren Aborot

Purok Dalampasigan-1, Sitio Sabang

Barangay Cabayugan, PPCity

Atty. Joseph L. Pardian, Jr

Dandino Baldera, Sr. et. al

Sitio Sabang, Bgy. Cabayugan, PPCity

Certification fee: Php100.00

RTC O.R No. 8779683 D

Date: May 16, 2022