

ANDRES VIVAR, PLAINTIFF AND APPELLANT, VS. ANTONIO VIVAR, DEFENDANT AND APPELLEE.

G.R. No. L-18667. August 31, 1963

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Andres Vivar from the order of the Court of First Instance of Leyte in Civil Case No. 2507 dismissing said case, on the ground that the issues raised therein are within the exclusive jurisdiction of the Court of Agrarian Relations.

On January 12, 1959, Andres Vivar instituted in the Justice of the Peace Court of Julita, Leyte, an action for forcible entry against appellee, Antonio Vivar. His complaint alleged that he had been in lawful, actual, physical, notorious, continuous and adverse possession, as co-owner, for many years, of a registered parcel of rural land situated at barrio San Andres, Julita, Leyte; that sometime in May, 1958, Antonio Vivar, by means of stealth, strategy, force and intimidation, occupied a portion of said land and constructed a house thereon, thereby depriving him of the actual possession of an area of around fifty square meters; that despite repeated demands, defendant had refused to vacate the same; and that the reasonable monthly rental value of the land in question was P5.00.

In a written answer, defendant asserted that his father, Dionisio Vivar, had occupied the land in question as tenant of appellant and his co-owners for many years until his death in 1946 when, with the consent of the co-owners, defendant became the permanent tenant to continue the planting of coconut trees started by his late father. By way of affirmative defense, defendant moved for the dismissal of the complaint on the ground that the action was within the exclusive jurisdiction of the Court of Agrarian Relations as it involved the relation of landlord and tenant, and, as alternative and by law of counterclaim, in the event that the Court should consider the case as one of forcible entry, defendant sought the recovery of the value of the coconut trees planted by him and his deceased father, and moral damages in the total sum of P10,420.00.

The plaintiff moved to dismiss the counterclaim on the ground, firstly, that the inferior court had no jurisdiction to determine the same because it was based on the existence of the relation of landlord and tenant between the parties, and, secondly, because the amount exceeded P5,000.00.

After trial, the court rendered judgment ordering defendant to vacate the premises and to pay plaintiff the sum of P5.00 as monthly rental, from the filing of the complaint until possession was restored to the latter.

On appeal to the Court of First Instance of Leyte, defendant filed an answer reiterating the same allegations, defenses and counterclaim. Plaintiff also renewed his motion to dismiss defendant's counterclaim on the same ground.

On August 17, 1959, the Court issued the appealed order of dismissal.

There can be no question that the action instituted by appellant in the Justice of the Peace Court of Julita, Leyte,

was of forcible entry. The question decisive of this appeal, therefore, is whether the allegations made by appellee in his answer and counterclaim changed the nature of the action into one between landlord and tenant and involving that relationship, thus depriving the aforesaid inferior court of its jurisdiction over the case.

It is a well settled rule that what determines the nature of an action are the allegations made in the complaint which, in the present case, as already stated, make out a simple case of forcible entry. Likewise, it is settled doctrine that the mere fact that, in his answer, defendant claims to be the exclusive owner of the property from which plaintiff seeks to eject him, is not sufficient to divest the Justice of the Peace Court of its jurisdiction over the summary action of forcible entry or unlawful detainer, unless it is conceded or, it appears upon trial that the questions of ownership and mere possession are so inextricably related or united, that the question of mere possession can not be decided without first deciding the question of ownership, for were the rule to be otherwise, the ends of justice would be easily frustrated by making the efficacy of the summary action for possession depend entirely upon the defendant (*Aquino vs. Deala*, 63, Phil., 582, *Supia vs. Quintero* 59, Phil., 312, 321, *Reyes vs. Elepano*, et al., G.R. No. L-0466, October 13, 1950; *Torres vs. De la Peña* 78 Phil., 231; *Penalosa vs. Garcia* 78 Phil., 245, *Cruz vs. Garcia* 79 Phil., 1). These rulings clearly apply to the present case by analogy. The nature of appellant's action was not changed nor did the Justice of the Peace Court of Julita lose its jurisdiction over the case simply because appellee's answer raised the question of tenancy.

Reason advanced by the lower court for the dismissal of the case is that appellant, by moving to dismiss appellee's counterclaim on the ground that the same was based on the existence of the relation of landlord and tenant between them, thereby admitting that the whole case involved the same question, is manifestly an error. Appellant made no such admission, neither expressly nor impliedly. What he said, through his motion to dismiss, was that, even assuming the allegations of the counterclaim to be true, the Justice of the Peace Court of origin as well as the Court of First Instance of Leyte had no jurisdiction over the counterclaim, not only because it raised the question of tenancy, but also because the amount involved therein was far beyond the jurisdiction of the inferior court. Certainly, this did not amount to any admission that appellant's own complaint involved the question of tenancy.

On the other hand, that the counterclaim was really for an amount far in excess of the jurisdictional amount for the Justice of the Peace Court of origin could not be denied. Consequently, we hold that it was correctly dismissed.

In view of all the foregoing, the order of dismissal appealed from is hereby set aside only as far as it dismissed the complaint, and the case is ordered remanded to the lower court for further proceedings in accordance herewith. With costs.

Bengzon, C. J., Padilla, Labrador, Reyes, J.B.L., Barera, Paredes, Regala and Makalintal, JJ. concur.

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