

GENARO PRADO, PLAINTIFF AND APPELLANT, VS. APOLINARIO CALPO, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-19370. April 30, 1964*

Ponente: PAREDES, J.

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On May 24, 1957, plaintiff Genaro Prado, filed with the Justice of the Peace Court of San Jacinto, Pangasinan, a forcible entry case against the defendants. On June 6, 1957, defendants presented their Answer, and interposed special and affirmative defenses, among which was the claim that defendant Dalmacio Cabrera was the owner of the property allegedly occupied by said defendants, having purchased the same from one Marciana Calpito, as evidenced by a Deed of Absolute Sale (Exh. 1), and for which he (Cabrera) was issued a TCT No. 23006 for said land in his name (Exh. 2). The Answer also averred that the Justice of the Peace Court had no jurisdiction to entertain the case, because it involved question of title over the property. A counter-claim in the sum of P500.00 for damages and P300.00 for attorney's fees, was also interposed.

Before trial, defendants filed a Petition for Dismissal dated July 25, 1959, on the principal ground that since the question of title and/or ownership was necessarily involved, the JP Court had no jurisdiction thereof, for to determine who had the right of possession (the issue in forcible entry cases), a finding as to the title or ownership was imperative. Plaintiff opposed, claiming, among others, that the ground on which the same was based could only be resolved in a trial on the merits, for, whether title is necessarily involved in an action for forcible entry or not is a question of fact. On August 28, 1957, the JP Court denied the Petition for Dismissal and set the case for trial on the merits.

On November 21, 1957, the JP Court rendered judgment, the pertinent portions of which read:

"A careful study of the evidence adduced by both parties, testimonial and documentary, clearly shows that the preponderance of evidence is in favor of the plaintiff. This Court can not see with valid reason the justification of the defendants in not presenting the supposed predecessor or predecessors of defendant Dalmacio Cabrera. * * *.

* * In an action for forcible entry and detainer, the only issue is possession in fact, or physical possession of real property, independently of any claim of ownership and either party may put forth in his pleading, if plaintiff can prove prior physical possession in himself, he may recover such possession from the owner, * * *.

The defendants have never questioned the due execution, or validity of the documents presented by plaintiff nor has plaintiff questioned the issuance of the TRANSFER CERTIFICATE No. 23006 issued in the name of defendant Dalmacio Cabrera nor any of the other documents presented by the defendant Dalmacio Cabrera.

In the light of the foregoing considerations, this Court is of the honest opinion, and so holds, that the preponderance of evidence is in favor of the plaintiff, for which reason judgment is hereby rendered in favor of the plaintiff and against the herein defendants, to wit:

(a) That defendants are hereby ordered to vacate the premises and restore unto the plaintiff the possession

thereof;

(b) That defendants are hereby ordered to pay jointly and severally unto the plaintiff the sum of P50.00 per month from May 18, 1957 up to the time the land is actually delivered;

(c) That defendants are ordered to pay jointly and severally unto the plaintiff the sum of P500.00 in concept of damages, moral and actual; and

(d) That defendants are hereby ordered to pay the costs of this suit."

Upon denial of defendants' Motion for Reconsideration and New Trial, they perfected their appeal to the Court of First Instance of Pangasinan. Instead of presenting their Answer, defendants filed a Motion to Dismiss again raising the same issue of jurisdiction of the inferior court.

On December 17, 1958, the CFI without any hearing, landed down an Order, of the following tenor:

"After a close scrutiny of the pleading and the jurisprudence on the matter, the court is constrained to grant the motion to dismiss. The land in question is presently covered by a certificate of title in the names of the defendants, and the defense upon which defendants rely necessarily involves ownership, the registration of the property in question in their names. Possession is merely an attribute of ownership and the mere filing of a forcible entry case does not make possession superior in character to that of ownership.

"The lower court, therefore, should have dismissed the case when the evidence presented by the defendants involved the ownership of the property which (it is not denied but on the contrary admitted) is described in the certificate of title of the defendants for the reason that from then on it had lost jurisdiction to try the case.

Actual evidence of ownership have been introduced by the parties in the lower courts. Those consist of the deed of sale in plaintiffs' favor (Exh. A); deed of sale in favor of the vendor of plaintiff (Exh. D); and the deed of sale and transfer certificate of title No. 23006 in the name of defendant Dalmacio V. Cabrera (Exhs. 1 and 2). These proofs center on the ownership of the property described in the complaint which issue the lower court has so jurisdiction to adjudicate.

In view of the foregoing, this case is hereby dismissed with costs against the plaintiff.

Plaintiff moved for the reconsideration of the above Order, stating that trial on the merits would have been more consistent with law and equity. On January 16, 1959, the trial court denied the motion for reconsideration. Thus, this appeal, plaintiffs-appellants alleging that the lower court committed three (3) errors, which center on the question of whether or not, under the facts of the case, the JP Court had jurisdiction to entertain the case and the CFI could legally take cognizance of the appeal.

The CFI erred in quashing the case, upon a mere motion to dismiss. The findings of the JP Court clearly show that the plaintiffs had prior physical possession of the disputed property and the alleged circumstance that the defendant Cabrera was the registered owner of the property, did not detract from the fact that plaintiffs had a right of possession thereof which should be protected. Incidentally, We note that the Certificate of Title in the name of Cabrera was issued only on February 17, 1956; whereas the plaintiffs' right to occupy the premises was evidenced by a Deed of Sale of the property to them, dated November 28, 1947, executed by Ventura Garcia and his wife Maria Consuelo Frianeza, who bought the same property from Gonzalo Sandoval, by virtue of a Deed of Sale dated May 2, 1938. When possession is the issue, an action for Forcible Entry and Detainer is the proper remedy. The CFI should have heard the case on the merits, and find out whether the findings and conclusions of fact of the JP, regarding the prior possession of the plaintiffs and their subsequent dispossession by the defendants are correct or not. Insofar as the appeal with the CFI is concerned, the latter did not have to delve into the issue of ownership, which could be threshed out in an action, to quiet title. Forcible entry and detainer lies even against

the very owner of property.

Conformable with the foregoing, the order of the CFI of Pangasinan, dated December 17, 1958, ordering the dismissal of the case, is hereby set aside and another entered, remanding the case to the said Court, for further appropriate proceedings. No special pronouncement as to costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Dizon, and Makalintal, JJ., concur.

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