

DOMINGA TORRES, PLAINTIFF AND APPELLANT, VS. J. M. TUASON, & CO., INC., AND EUSTAQUIO ALQUIROS, DEFENDANTS AND APPELLEES.*G.R. No. L-19668. October 22, 1964*

Ponente: REYES, J. B. L. J.

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Sustaining a motion to dismiss of defendant J. M. Tuason & Co., Inc., the Court of First Instance of Manila, by order of 20 January 1962, ordered the dismissal of the complaint, in its Civil Case No. 43909, for improper venue. Plaintiff appealed directly to this Court on points of law.

The complaint, dated 4 December 1961, recites in substance that since prior to 1813 to his death, one Telesforo Deudor was the sole owner of a parcel of land situated in Matalahib, Tatalon and Masambong, Quezon City, with an area of 50 quiñones[1] ; that when Telesforo Deudor died he was succeeded by his son, Tomas Deudor, who sold one and a half quiñones of the land to one Juliana @ Juana do la Cruz; that when the latter died in 1914 she was succeeded by her only son, Eustaquio Alquiros; that on 20 October 1951, Alquiros sold to the plaintiff, Dominga Torres, a portion of 690 square meters for a consideration of P2,760.00, as evidenced by a public instrument (Annex "A"); that to quiet title to their property of 50 quiñones, the successors in interest of Tomas Deudor filed in 1950 actions against J. M. Tuason & Co. in the Court of First Instance of Quezon City (Civil Cases Nos. Q-135, Q-174, Q-177, Q-186); that plaintiff tried to intervene in said actions, but intervention was denied; that on 16 March 1953 the Deudors, including Eustaquio Alquiros, and J. M. Tuason & Co. entered into a compromise, in Case No. Q-135, whereby paid "Deudors" and Alquiros, in consideration of P1,201,063.00 to be paid them, ceded and quit claimed in favor of said company any right or title that said Deudors had over the property in litigation, including the 690 square meters sold to plaintiff Torres, which compromise was approved by the court that in the Annex "C" to said compromise the name of plaintiff appeared; that the compromise stipulated that the buyers listed in Annex "B" shall buy the lots occupied by them and shall sign new contracts with Tuason & Co., at the current prices and terms set by the latter, but the amounts paid by them to the Deudors subject to verification by the Court) shall be credited by Tuason & Company to the buyers and deducted from the amounts to be paid to the Deudors; that in the case of Evangelists vs. Deudor, G. R. L-12826, the Supreme Court ruled that by the aforementioned compromise agreement "a sort of contractual relation" existed between J. M. Tuason & Company and the purchasers of land from the Deudors, among whom is plaintiff herein, and Tuason & Company assumed certain obligations in favor of said purchasers, as regard the sales of their respective lots; that sometime in May, 1953 the plaintiff demanded from J. M. Tuason & Company the execution of a new contract of sale in her favor of the portion of land she is occupying, at the current price, which was then seven pesos (P7.00) per square meter, but the Company failed to do so; that plaintiff was always willing and ready to pay said price or such reasonable price as the court may fix.

The complaint concluded with the following prayer;

"WHEREFORE, plaintiff most respectfully prays that judgment be rendered:

(a) Ordering the defendant J. M. Tuason & Co., Inc., to execute the final deed of sale of the property described in Annex "A" of the complaint, of approximately (600) square meters in area, in favor of the plaintiff upon payment by the latter of the purchase price at the rate of SEVEN PESOS (P7.00) per square meter, or such other rate as this Honorable Court may deem as the reasonable price per square meter in or about May, 1953; to consider the sum of P2,760.00 already paid to Eustaquio Alquiros by the plaintiff as a partial payment thereof; and the cause to be issued a Transfer Certificate of title therefor in the name of the plaintiff, and

(b) Ordering the defendant J. M. Tuason & Co., Inc. to pay the costs of the suit.

Plaintiff further prays for such other relief or remedy as this Honorable Court may deem just and equitable in the premises." (Rec. App., pp. 12-13)

The Manila Court held that it "has no doubt that the action really concerns title of real property which is in Quezon City", and on 20 January 1962 dismissed the complaint on the ground of improper venue. Plaintiff duly appealed.

In this Court, the appellant insists that her action is one of specific performance, and, therefore, personal and transitory in nature.

This very issue was considered and decided by this Court in the case of Manuel B. Ruiz vs. J. M. Tuason & Co., Inc., et al., L-18692, promulgated 31 January 1963. There the Court, by unanimous vote of all the Justices, held as follows:

"This contention has no merit. Although appellant's complaint is entitled to be one for specific performance, yet the fact that he asked that a deed of sale of a parcel of land situated in Quezon City be issued in his favor and that a transfer certificate of title covering said land be issued to him shows that the primary objective and nature of the action is to recover the parcel of land itself because to execute in favor of appellant the conveyance requested there is need to make a finding that he is the owner of the land which in the last analysis resolves itself into an issue of ownership. Hence, the action must be commenced in the province where the property is situated pursuant to Section 3, Rule 5, of the Rules of Court, which provides that actions affecting title to or recovery of possession of real property shall be commenced and tried in the province where the property or any part thereof lies. This contention finds support in the following authorities:

"An action by which plaintiff seeks to have it adjudged that he is the owner of an undivided third of mining property, and to have defendants directed to execute to him a conveyance thereof, is within Code Civ. Proc. Section 392, providing that actions for recovery of real property or of an interest therein, or for the determination of such interest, must be tried in the country in which the subject of the action is situated." (McFarland vs. Martin, et al., 78 p. 239)

"Suit by purchaser for ascertainment of amount due on contract and for vendors' execution of deed on payment thereof held suit for specific performance, triable where land was situated." (Kopke vs. Carlson, et al. 276 p. 606)"

The Ruiz decision applies, and is determinative of the present case.

Wherefore, the order of dismissal appealed from is affirmed, with costs against appellant.

Bengzon, C. J., Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

[1] The "quiñon realengo" was 5.7755 hectares (Romero vs. Dir. of Lands, 20 Phil. 119).

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