

**FELICIDAD JAVIER, PETITIONER, VS. HON. REGINO T. VERIDIANO II,
PRESIDING JUDGE, BRANCH I, COURT OF FIRST INSTANCE OF
ZAMBALES AND REINO ROSETE, RESPONDENTS.**

G.R. No. L-48050. October 10, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioner Felicidad Javier questions before us the order of a regional trial court citing the final decision of the city court previously dismissing her complaint for forcible entry, and on the basis thereof, dismissed her petition to quiet title on the ground of *res judicata*. We summon the time-honored remedies *accion interdictal*, *accion publiciana* and *accion reivindicatoria* or *accion de reivindicacion* to resolve the issues presented in the petition.

It appears that on 25 January 1963, petitioner filed a Miscellaneous Sales Application for Lot No. 1641, Ts-308 of the Olongapo Townsite Subdivision, Lower Kalaklan, Olongapo City, with the District Land Officer, Bureau of Lands, Olongapo City. Sometime in December 1970, alleging that she was forcibly dispossessed of a portion of the land by a certain Ben Babol, she instituted a complaint for forcible entry before the City Court of Olongapo City, docketed as Civil Case No. 926, stating in pars. 2 and 3 therein that -

x x x plaintiff is the true, lawful and in actual, prior physical possession of a certain parcel of land situated at Lower Kalaklan, City of Olongapo, said lot being designated as Lot No. 1641, Ts-308 of the Olongapo Townsite Subdivision since 1961 and up to the present time, until the day and incidents hereinafter narrated x x x Sometime on December 12, 1970, the defendant, without express consent of plaintiff and without lawful authority, through scheme, strategy and stealth, forcibly entered a portion on the southwestern part of Lot No. 1641, Ts-308, with the assistance of hired helpers, started construction of riprap along the Kalaklan River perimeter of said portion of land; said entry was further augmented by removing plaintiff's chain link, fence with galvanized iron posts embedded in concrete, likewise destroying plants introduced by plaintiff by removing existing BL (Bureau of Lands) monuments thereon, and by these actions, defendant started exercising illegal possession of said portion of land which contains an area of 200 square meters, more or less.”[1]

On 7 November 1972 the City Court of Olongapo City, Br. 4,[2] dismissed Civil Case No. 926 on the ground that "it appears to the Court that the Bureau of Lands has considered the area in question to be outside Lot 1641 of the plaintiff x x x x"[3] The Decision of the City Court of Olongapo City became final and executory on 30 April 1973 when the then Court of First Instance of Zambales and Olongapo City, Br. 3,[4] dismissed the appeal and affirmed the findings and conclusions of the City Court holding that appellant (herein petitioner) failed to give sufficient evidence to prove that the area in question was within the boundaries of Lot No. 1641.[5]

Subsequently, on 17 December 1973, petitioner was granted Miscellaneous Sales Patent No. 5548 and issued Original Certificate of Title No. P-3259 covering Lot No. 1641. Meanwhile, Ben Babol who was the defendant and appellee in the complaint for forcible entry had sold the property he was occupying, including the portion of about 200 square meters in question, to a certain Reino Rosete. Thus petitioner demanded the surrender of the

same area in dispute from Reino Rosete who repeatedly refused to comply with the demand.

On 29 June 1977, or after about four (4) years from the finality of the dismissal of Civil Case No. 926, petitioner instituted a complaint for quieting of title and recovery of possession with damages against Ben Babol and Reino Rosete before the then Court of First Instance of Zambales and Olongapo City, docketed as Civil Case No. 2203-0, alleging in pars. 2 and 3 therein that -

x x x plaintiff is the absolute owner in fee simple of a parcel of land identified as Lot No. 1641, Ts-308, Olongapo Townsite Subdivision x x x covered by Original Certificate of Title No. P-3259, issued by the Register of Deeds for the province of Zambales x x x x Sometime in December, 1970, and until present, defendants, relying on an application filed on December 23, 1969, with the Bureau of Lands, however have squatted, illegally occupied and unlawfully possessed the southwestern portion of plaintiff's above-described property of about 200 square meters, then by defendant BEN BABOL and now by defendant REINO ROSETE, the former having sold the entirety of his property to the latter, including the portion in question x x x x[6]

Instead of filing a responsive pleading, therein defendant Reino Rosete (private respondent herein) moved to dismiss the complaint on the ground of res judicata. Defendant Ben Babol did not file any pleading.

In its Order dated 27 January 1978,[7] the then Court of First Instance of Zambales, Br. 1,[8] sustained the argument of Rosete and granted his motion to dismiss. Thereafter, petitioner's motion for reconsideration was denied.[9] Hence, this petition for review on certiorari.

Petitioner contends that res judicata cannot apply in the instant case since there is no identity of parties and causes of action between her complaint for forcible entry, which had long become final and executory, and her subsequent petition for quieting of title. She argues that private respondent Reino Rosete, who invokes the defense of res judicata, was never impleaded in the forcible entry case, which is an action in personam; neither was he a purchaser pendente lite who, perhaps, could have validly invoked the defense of res judicata. With regard to the cause of action, she maintains that there is no identity of causes of action since the first case was for forcible entry, which is merely concerned with the possession of the property, whereas the subsequent case was for quieting of title, which looks into the ownership of the disputed land.

Private respondent however submits that there is identity of parties in the two cases since he is a successor in interest by title of the defendant in the first case after the commencement of the first action. On the issue of identity of causes of action, he simply states that neither of the two cases, i.e., the complaint for forcible entry and the subsequent petition for quieting of title, alleges a cause of action. Thus, private respondent continues, both cases have to be dismissed.

Time and again it has been said that for res judicata to bar the institution of a subsequent action the following requisites must concur: (1) There must be a final judgment or order; (2) The court rendering the judgment must have jurisdiction over the subject matter; (3) The former judgment is a judgment on the merits; and, (4) There is between the first and second actions identity of parties, of subject matter and of causes of action.[10] The presence of the first three requirements and the identity of subject matter in the fourth requirement are not disputed. Hence, the only issues remaining are whether as between Civil Case No. 926 and Civil Case No. 2203-0 there is identity of parties and of causes of action which would bar the institution of Civil Case No. 2203-0.

Petitioner's argument that there is no identity of parties between the two actions is without merit. We have repeatedly ruled that for res judicata to apply, what is required is not absolute but only substantial identity of parties.[11] It is fundamental that the application of res judicata may not be evaded by simply including additional parties in a subsequent litigation. In fact we have said that there is still identity of parties although in the second

action there is one party who was not joined in the first action, if it appears that such party is not a necessary party either in the first or second action,[12] or is a mere nominal party.[13] Thus, Sec. 49, par. (b), Rule 39, Rules of Court, provides that "x x x the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity."

In the case at bench, it is evident that private respondent Reino Rosete is a successor in interest of Ben Babol by title subsequent to the commencement and termination of the first action. Hence, there is actual, if not substantial, identity of parties between the two actions. But, there is merit in petitioner's argument that there is no identity of causes of action between Civil Case No. 926 and Civil Case No. 2203-0.

Civil Case No. 926 is a complaint for forcible entry, where what is at issue is prior possession, regardless of who has lawful title over the disputed property.[14] Thus, "[t]he only issue in an action for forcible entry is the physical or material possession of real property, that is, possession de facto and not possession de jure. The philosophy underlying this remedy is that irrespective of the actual condition of the title to the property, the party in peaceable quiet possession shall not be turned out by strong hand, violence or terror." [15] And, a judgment rendered in a case for recovery of possession is conclusive only on the question of possession and not on the ownership. It does not in any way bind the title or affect the ownership of the land or building.[16]

On the other hand, Civil Case No. 2203-0 while inaccurately captioned as an action for "Quieting of Title and Recovery of Possession with Damages" is in reality an action to recover a parcel of land or an accion reivindicatoria under Art. 434[17] of the Civil Code, and should be distinguished from Civil Case No. 926, which is an accion interdictal. From the averments of the complaint in Civil Case No. 2203-0, plaintiff therein (petitioner herein) clearly sets up title to herself and prays that respondent Rosete be ejected from the disputed land and that she be declared the owner and given possession thereof. Certainly, the allegations partake of the nature of an accion reivindicatoria.[18]

The doctrine in *Emilia v. Bado*, [19] decided more than twenty-five years ago, is still good law and has preserved the age-old remedies available under existing laws and jurisprudence to recover possession of real property, namely, accion interdictal, which is the summary action for forcible entry (*detentacion*) where the defendant's possession of the property is illegal *ab initio*, or the summary action for unlawful detainer (*desahuico*) where the defendant's possession was originally lawful but ceased to be so by the expiration of his right to possess, both of which must be brought within one year from the date of actual entry on the land, in case of forcible entry, and from the date of last demand, in case of unlawful detainer, in the proper municipal trial court or metropolitan trial court; [20] accion publiciana which is a plenary action for recovery of the right to possess and which should be brought in the proper regional trial court when the dispossession has lasted for more than one year; and, accion reivindicatoria or accion de reivindicacion which seeks the recovery of ownership and includes the *jus utendi* and the *jus fruendi* brought in the proper regional trial court.

Accion reivindicatoria or accion de reivindicacion is thus an action whereby plaintiff alleges ownership over a parcel of land and seeks recovery of its full possession.[21] It is different from accion interdictal or accion publiciana where plaintiff merely alleges proof of a better right to possess without claim of title.[22]

In Civil Case No. 926 petitioner merely claimed a better right or prior possession over the disputed area without asserting title thereto. It should be distinguished from Civil Case No. 2203-0 where she expressly alleged ownership, specifically praying that she be declared the rightful owner and given possession of the disputed portion. Hence, in Civil Case No. 926 petitioner merely alleged that she was "the true, lawful (possessor) and in

actual, prior physical possession" of the subject parcel of land, whereas in Civil Case No. 2203-0 she asserted that she was "the absolute owner in fee simple" of the parcel of land "covered by Original Transfer Certificate of Title No. P-3259." The complaint in Civil Case No. 2203-0 definitely raises the question of ownership and clearly gives defendants therein notice of plaintiff's claim of exclusive and absolute ownership, including the right to possess which is an elemental attribute of such ownership. Thus, this Court has ruled that a judgment in a forcible entry or detainer case disposes of no other issue than possession and declares only who has the right of possession, but by no means constitutes a bar to an action for determination of who has the right or title of ownership.[23]

And, applying the ruling of the Court En Banc in *Quimpo v. De la Victoria*,[24] even if we treat Civil Case No. 2203-0 as a petition to quiet title, as its caption suggests, still it has a cause of action different from that for ejectment. Consequently, there being no identity of causes of action between Civil Case No. 926 and Civil Case No. 2203-0, the prior complaint for ejectment cannot bar the subsequent action for recovery, or petition to quiet title.

WHEREFORE, the petition is GRANTED. The Order dated 27 January 1978 of the then Court of First Instance of Zambales, Br. I, with station in Olongapo City, dismissing Civil Case No. 2203-0, and its subsequent Order denying reconsideration of the dismissal are REVERSED and SET ASIDE.

The Clerk of Court is directed to remand the records immediately to the court a quo and the latter to proceed with the trial of Civil Case No. 2203-0 with deliberate dispatch. This decision is immediately executory.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] See Complaint for Forcible Entry dated 15 December 1970; Rollo, pp. 89-90.

[2] Judge Benjamin A.G. Vega, presiding.

[3] Decision of the City Court of Olongapo City, Br. 4, p. 13; Rollo, p. 107.

[4] Judge Bernardo P. Fernandez, presiding.

[5] Rollo, pp. 109-120.

[6] See Complaint for Quieting of Title; Rollo, pp. 121-123.

[7] Rollo, pp. 45-49.

[8] Judge Regino T. Veridiano II, presiding.

[9] Rollo, p. 31.

[10] *Mesina v. Court of Appeals*, G.R. No. 100228, 13 July 1994, citing *Meliton v. Court of Appeals*, G.R. No. 101833, 11 December 1992, 216 SCRA 485; *Baquioro v. Basa, Jr.*, G.R. No. 83369, 2 October 1992, 214 SCRA 437; *De Ramos v. Court of Appeals*, G.R. No. 86844, 1 September 1992, 213 SCRA 207; *De la Rosa v. Mercado*, G.R. No. 101703, 3 July 1992, 211 SCRA 236.

[11] *Esperanza Development Corporation v. Court of Appeals*, G.R. No. 97197, 3 February 1993, 218 SCRA 401; *Development Bank of the Philippines v. Judge Pundogar*, G.R. No. 96921, 29 January 1993; See also *Lim Toco v. Go Fay*, 81 Phil. 258 (1948).

[12] Mallari v. Court of Appeals, No. L-26467, 15 July 1981, 105 SCRA 430, citing Juan v. Go, 26 Phil. 328 (1913).

[13] Medija v. Patcho, No. L-30310, 23 October 1984, 132 SCRA 540.

[14] Villaluz v. Court of Appeals, G.R. No. 100571, 26 June 1992, 210 SCRA 540.

[15] Joven v. Court of Appeals, G.R. No. 80739, 20 August 1992, 212 SCRA 700.

[16] Manlapaz v. Court of Appeals, No. L-39430, 3 December 1990, 191 SCRA 795, citing Bernal v. Judge Valdellon, No. L-38510, 25 March 1975, 63 SCRA 278.

[17] Art. 434 of the Civil Code provides that "[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim."

[18] Ledesma v. Marcos, 9 Phil. 620 (1908)

[19] No. L-23685, 25 April 1968, 23 SCRA 183.

[20] Pharma Industries, Inc. v. Judge Pajarillaga, G.R. No. 57388, 17 October 1980, 100 SCRA 339; Sarona v. Villegas, No. L--22984, 27 March 1968, 22 SCRA 1257.

[21] See Note 18.

[22] Ibid.

[23] Bautista v. Fernandez, No. L-24062, 30 April 1971, 38 SCRA 548.

[24] No. L-31822, 31 July 1972, 46 SCRA 139.

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