

SPOUSES DOLORES MEDINA AND MOISES BERNAL, PETITIONERS, VS. THE HONORABLE NELLY L. ROMERO VALDELLON OF THE COURT OF FIRST INSTANCE OF MALOLOS, BULACAN, SPOUSES CIPRIANO VILLANUEV...

G.R. No. L-38510. March 25, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition to review by certiorari the order dated October 23, 1973 of the Hon. Nelly L. Romero Valdellon, Judge of the Court of First Instance of Bulacan, Branch I, which dismissed with costs against the plaintiffs its Civil Case No. 4353-M, entitled "Spouses Dolores Medina and Moises Bernal, plaintiffs, vs. Spouses Cipriano Villanueva and Rufina Panganiban, defendants."

The complaint in Civil Case No. 4353-M of the Court of First Instance of Bulacan alleges that plaintiffs (petitioners in this case) are the owners of a parcel of land situated at Bo. San Pascual, Hagonoy, Bulacan, with an assessed value of P800.00 which was purchased sometime in April 1967 from Margarita Punzalan, Rosa Punzalan, Quaquin Gaddi and Paulina Gaddi; "that as defendants are family friends of the plaintiffs, defendants were allowed to remain in the premises and to construct their residential house, subject to the condition that defendants will return unto the plaintiffs the premises upon demand"; "that much to the surprise of the plaintiffs-spouses, on demand, defendants-spouses refused and remain obstinate in their refusal to surrender the property in question"; that because of said defendants' unjustified acts plaintiffs had to institute action and incur damage of P500 as expenses for court litigation; that "the reasonable value of the use of the premises is P100 a month, taking into consideration its commercial value"; and prayed that the defendants be ordered "to vacate the premises and surrender unto plaintiffs" the said property and defendants be ordered to pay plaintiffs "the amount of P500 as incidental expenses and the amount of P100 a month from the filing of this action to the time they surrender its possession to the plaintiffs".

A subsequent motion to amend and admit amended complaint was filed by plaintiffs, the amendment consisting of:

"4. That as defendants-spouses are family friends of the plaintiffs, they (defendants) were allowed to build a small house in the premises in April 1967, subject to the condition that they will return to the plaintiffs the premises in 1969;

"5. That much to the surprise of the plaintiffs-spouses on demand, defendants-spouses refused and remains obstinate in their refusal to surrender the property in question claiming that they are the owners thereof;"

A motion to dismiss the complaint and an opposition to the motion to amend and admit the amended complaint filed by the defendants (respondents in this case) preceded the respondent court's questioned order of October 30, 1973, that dismissed the complaint on the ground of "there being another case pending between the same parties over the same property, namely Land Registration Case No. 2814 of this Court." Petitioners' motion for

reconsideration was denied by respondent court in its order dated February 8, 1974.

The only legal issues raised are:

"Whether or not the pendency of a land registration case will bar the institution of an action for the recovery of possession; and in the negative, whether or not the respondent judge can be countenanced in her act of dismissing the latter case in view of the pendency of the land registration case."

When this Court (First Division) on May 10, 1974, resolved "without giving due course to the petition, to require the respondents to comment thereon, within 10 days from notice, and both parties to state whether or not there is any valid reason why Civil Case No. 4353-M of the respondent court should not be tried and decided jointly with Land Registration Case No. 2814 of Branch VI of said court, considering that the claim of the plaintiffs in Civil Case No. 4353-M (herein petitioners) for damages due to alleged illegal occupancy of the land involved by the defendants (respondents herein) may not be properly passed upon and adjudicated in the land registration case, where only the question of title to the property sought to be registered will be decided between the applicants and oppositors," counsel for respondents, Rosendo G. Tansinsin Jr., included in his Manifestation and/or Comment, dated May 20, 1974, the following statement: "nevertheless, from the reading of the resolution aforequoted, one will certainly have no doubt that there is no need for the respondents to make any comment on the matter as the same will be an exercise of futility since this Honorable Court has not only given due course to the petition, but has actually decided the same, x x x." By reason of the disrespectful tone of the aforesaid statement, said counsel was required by this Court's (First Division) resolution of May 29, 1974, to show cause why he should not be dealt with for contempt of court.

The petitioners by way of compliance with this Court's aforementioned resolution of May 10, 1974, requested that the order of October 30, 1973 of the respondent court be set aside and that the Court of First Instance of Bulacan (Branch I and VI) be ordered to consolidate, try and decide Civil Case No. 4353-M of Branch I and L. R. C. Case No. 2814 of Branch VI.

The explanation submitted by respondents' counsel, although it contained an apology, was not considered satisfactory by this Court. Hence in its resolution of July 10, 1974, Atty. Rosendo G. Tansinsin Jr. was declared in contempt of court and suspended from the practice of law for a period of three months. His subsequent motion for reconsideration and personal plea for leniency, sympathy and understanding, coupled with his repeated apology and regret, and the fact that his act appeared to be his first offense of that nature, made this Court reconsider the suspension from the practice of law and, instead, ordered him to pay a fine of P300.00 which he has paid.

On the principal issues raised in this case, We have no doubt that the nature of the action embodied in the complaint in Civil Case No. 4353-M is one for recovery of possession brought before the Court of First Instance by the alleged owners of a piece of land against the defendants who were supposed to have unlawfully continued in possession since 1969 when they were supposed to return it to plaintiffs, plus damages. That the action is not for unlawful detainer contemplated in Rule 70 of the Rules of Court, which falls under the exclusive original jurisdiction of the city courts or municipal courts, is very apparent because an action of unlawful detainer is defined as "withholding by a person from another for not more than one year, of the possession of a land or building to which the latter is entitled after the expiration or termination of the former's right to hold possession by virtue of a contract express or implied". (Tenorio vs. Gomba 81 Phil. 54; Dikit vs. Ycasiano 89 Phil. 44) On the basis of the allegations of the complaint in Civil Case No. 4353-M, the defendants withheld possession from the plaintiffs since 1969 or very much more than the one year period contemplated in unlawful detainer cases at the time the complaint was filed in July of 1973. Not all cases of dispossession are covered by Rule 70 of the Rules of Court (Forcible Entry and Unlawful Detainer cases) because whenever the owner of property is dispossessed by any other means than those mentioned in the aforementioned rule, he may initiate and maintain a

plenary action to recover possession in the Court of First Instance, and it is not necessary for him to wait until the expiration of one year before commencing such action. (*Gumiran vs. Gumiran* 21 Phil. 174) It may also be brought after the expiration of said period of one year, if no action had been initiated for forcible entry and detainer during that time in the inferior court. This plenary action to recover possession (*accion publiciana*) must be instituted in the Court of First Instance as was done in this case.

The respondent court's action in dismissing Civil Case No. 4353-M on the ground that there is another pending case (L. R. C. No. 2814 of Branch VI of the same court) between the same parties over the same property is to Our mind rather precipitate, for We find sufficient merit in petitioners' contention that the rights sought to be enforced and the reliefs prayed for in Civil Case 4353-M (recovery of possession and damages) are entirely separate and distinct from that sought in L. R. C. Case No. 2814 (where petitioners as oppositors are seeking the exclusion of their land from that of private respondents' claim of title over a bigger tract of land). It is likewise true that the Court of First Instance of Bulacan (Branch VI) acting as a land registration court has a limited and special jurisdiction confined to the determination of the legality and propriety of the issue of title over the land subject matter of registration, and it has no power to entertain issues of rightful possession and claim for damages emanating from ownership. It is a fundamental principle in the law governing unlawful detainer cases (including recovery of possession cases) that a mere plea of title or ownership over the disputed land by the defendant cannot be used as a sound legal basis for dismissing an action for recovery of possession because an action for recovery of possession can be maintained even against the very owner of the property. (*Prado vs. Calpo et al*, G. R. No. L-19379, April 30, 1964) In the case at bar, there is not even a plea of title on the part of private respondents over the disputed property but a mere allegation that there is another action (L. R. C. No. 2814 pending in Branch VI of that court) for registration of title to that land the possession of which is being recovered by petitioners in Civil Case No. 4353-M. An action for recovery of possession is totally distinct and different from an action for recovery of title or ownership. In fact, a judgment rendered in a case of recovery of possession is conclusive only on the question of possession and not that of ownership. It does not in any way bind the title or affect the ownership of the land or building. (Sec. 7, Rule 70, Revised Rules of Court).

The inevitable conclusion from the foregoing is that Civil Case No. 4353-M (for recovery of possession and damages) was arbitrarily and erroneously dismissed on the basis of the alleged pendency of another action (L.R.C. No. 2814 pending in Branch VI of the same court), because while identity of parties may be established in both cases, there is no identity of cause of action or of rights asserted and relief prayed for, so that judgment which may be rendered in one case would not necessarily result in *res judicata* for the other case.

We cannot see any sufficient reason for any of the parties in this case to object to the consolidation of the trial of both cases (L.R.C. Case No. 2814 and Civil Case No. 4353-M), since the evidence that may be presented by the parties involving possession and ownership of the disputed parcel of land may facilitate an expeditious termination of both cases. While the issues raised in both cases are not exactly identical, the evidence involving the issues of possession and ownership over the same land must be related and its presentation before one court of justice would redound to a speedy disposition of this litigation.

WHEREFORE, the respondent court's orders of October 30, 1973, and February 8, 1974, are hereby declared null and void and set aside; the complaint and amended complaint in Civil Case No. 4353-M revived; both the respondent Judge and the Presiding Judge, Branch VI, of the Court of First Instance of Bulacan, being directed to consolidate the trial of L. R. C. No. 2814 and Civil Case No. 4353-M in one branch of that court. Costs against private respondents.

SO ORDERED.

Makalintal, C.J., (Chairman), Castro, Teehankee, and Makasiar, JJ., concur.

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