

**JAMES JUDITH, MANUEL JUDITH AND TERESITA JUDITH
LOZADA, PLAINTIFFS-APPELLANTS, VS. MELCHOR ABRAGAN AND
CONCHITA DE ABRAGAN, DEFENDANTS-APPELLEES.**

G.R. No. L-41162. September 05, 1975

Ponente: MARTIN, J.

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MARTIN, J.:

Certified to Us for disposition, on the sole question of jurisdiction is the appeal before the Court of Appeals of the decision of the Court of First Instance of Misamis Oriental in Civil Case No. 2768 entitled "Judith, et al. vs. Abragan, et al." dismissing the case of illegal detainer filed by the plaintiffs against the defendants.

On October 27, 1964, plaintiffs acquired by virtue of a deed of sale, a building (house-store) and two lots for the sum of PI 2,580.00. After buying the property, they in turn leased it to the defendants; that after sometime the defendants failed to pay the corresponding monthly rentals; and that despite repeated demands, they refused to vacate the premises.

On August 23, 1965, plaintiffs filed before the City Court of Cagayan de Oro, a complaint for illegal detainer against the defendants praying:

"WHEREFORE, plaintiffs pray for judgment in their favor ordering defendants (1) to vacate-the premises and to return the possession thereof to plaintiffs, (2) to pay the plaintiffs the above sums of uncollected rentals from February, 1965 to the present at ONE HUNDRED (P100.00) PESOS a month, plus no less than FIVE HUNDRED (P500.00) PESOS, by way of attorney's fees and expenses of litigation, plus costs and such other remedies which are just and proper under the premises." [1]

In their answer, defendants interposed the following affirmative defenses: that plaintiffs' complaint states no cause of action against the defendants; that there is a case now pending before the Court of First Instance of Misamis Oriental involving the same subject matter, the same parties and the same issue; that the document, Annex "A" of plaintiffs' complaint, does not express and/or reflect the true intention, covenants, terms and conditions previously agreed upon by the defendants and the plaintiffs because the real agreement of the parties was either a Real Estate Mortgage, or Deed of Sale with Right to Repurchase and not a "Deed of Absolute Sale of Lots and House" and that the defendants have always been in actual and physical possession of the properties described in the plaintiffs' complaint up to the present. [2]

On March 7, 1966, defendants filed a motion to dismiss the plaintiffs' complaint on the ground that the main issue in the case is that of ownership of the properties in question and another action is pending in the Court of First Instance of Misamis Oriental involving the same deed of sale.

On March 23, 1966, the City Court denied the motion to dismiss. Subsequently, defendants, with leave of court, submitted an amended answer denying under oath the genuineness and due execution of the documents attached to the plaintiffs' complaint.

On July 6, 1966, defendants filed another motion to dismiss restating the same grounds they availed of in their first motion, but the same was denied by the City Court in its order dated July 29, 1966.

After trial, the City Court on October 21, 1966 rendered judgment in favor of the plaintiffs.

In due season, defendants appealed to the Court of First Instance of Misamis Oriental. During the pendency of the appeal, defendants filed a motion to suspend the hearing thereof on the ground that there is another case between the same parties pending in Branch 1 of the Court of First Instance of Misamis Oriental, the issue of which involves a question of ownership over the same properties. The motion was denied and the lower court proceeded with the trial of the case. After the plaintiffs have rested their case, defendants filed a Demurrer to the Evidence and/or Motion to Dismiss.

On September 23, 1969, the lower court rendered its decision, holding that:

"Consequently, the City Court was without jurisdiction and should have dismissed the case; hence, this Court has no appellate jurisdiction to try it on the merits, considering the objection to the jurisdiction of the Court articulated vehemently by defendants before the City Court and later, before this Court. (Rule 40, General Insurance vs. Castelo, L-19330, April 30, 1965; citing Rivera v. Halili, 9 SCRA 59). The question of title to the property in litigation which should precede that of possession shall be ventilated and decided in Civil Case No. 2568 now pending before Branch I of this Court. (Po vs. Moscoso, supra.)

WHEREFORE, this case is hereby dismissed."

In their appeal, plaintiffs attribute to the lower court the following errors:

I

THE LOWER COURT ERRED IN FINDING THAT THE DEFENDANTS-APPELLEES HAVE NEVER DELIVERED TO PLAINTIFFS-APPELLANTS THE POSSESSION OF THE PROPERTY IN QUESTION.

II

THE LOWER COURT ERRED IN FINDING THAT NO LEASE CONTRACT OF ANY KIND EXISTED BETWEEN THE PARTIES

III

THE LOWER COURT ERRED IN FINDING THAT THE DEMAND-LETTER (EXHIBIT C) DATED JUNE 10, 1965, AND THE FILING OF THIS CASE ON AUGUST 23, 1965, WERE COUNTER MEASURES DESIGNED TO NEUTRALIZE OR FRUSTRATE CIVIL CASE NO. 2563 WHICH IS FOR REFORMATION OF THE ALLEGED DEED OF SALE (EXHIBIT A).

IV

THE LOWER COURT ERRED IN HOLDING THAT THE CITY COURT WAS WITHOUT JURISDICTION AND SHOULD HAVE DISMISSED THE CASE, HENCE, IT (CFI) HAS NO APPELLATE JURISDICTION OVER THE CASE AT BAR.

V

THE LOWER COURT ERRED IN DISMISSING PLAINTIFFS APPELLANTS' COMPLAINT.

The main issue in this appeal is whether or not the lower court has jurisdiction to hear and decide the case on the

merits in the exercise of its appellate jurisdiction. The resolution of the issue perforce depends on the nature of the action filed by the plaintiffs against the defendants before the City Court. Was the suit filed in the City Court one for unlawful detainer or one that necessarily involves the question of title to the property in litigation? Settled to the point of being almost trite is the rule that in determining whether an action of this kind is within the original jurisdiction of the municipal court or Court of First Instance, the averments of the complaint and the character of the relief sought should be the one to consider; that the defendant cannot defeat the jurisdiction of the justice of the peace or municipal court by setting up title in himself; and that the condition which defeats the jurisdiction of said court is the necessity to adjudicate the question of title.[3]

In their complaint filed with the City Court, plaintiffs alleged that they bought the property in question from the defendants on October 27, 1964 with the latter delivering possession thereof to the former on the same date; that upon verbal agreement, they leased the premises to the defendants for the monthly rental of P100.00 with the condition that upon their failure to pay even one monthly rental, they (plaintiffs) shall be entitled to evict them; that defendants have paid the rentals up to February 1965, but defaulted in subsequent payments corresponding to the month of February (partial) and up to the filing of the complaint. Plaintiffs prayed that defendants be ordered to vacate the premises and to pay the uncollected rentals, plus attorney's fees. Implicit in the foregoing allegations in the plaintiffs' complaint is the fact that plaintiffs do not seek to be declared owners of the property. The allegations and the prayer in the complaint, unmistakably disclose that the suit is for unlawful detainer. As this Court held in the case of *Medel vs. Militante*,[4] "it cannot be permitted that the defendant should defeat this action merely by inserting in his answer a claim of ownership in himself. Whether the justice of the peace court has jurisdiction to entertain an action of this character must be determined from the form in which the complaint is drawn — not from the allegations of the answer." The mere allegation in the answer that the deed of absolute sale which the defendants executed in favor of the plaintiffs does not express or reflect the true intention, covenants terms and conditions of the parties, will not change the nature of the action from one of unlawful detainer to that of a suit involving title or ownership of the property in question. However, in the words of the Supreme Court:

"x x x This does not mean that the defendant will not be permitted to prove the allegations of his answer to rebut or destroy the proofs that the plaintiff may offer in support of the allegations of his complaint. Without necessarily having to decide whether or not plaintiffs title to the property in question is valid, the respondent Judge may, after hearing the evidence of both parties, determine, whether or not the complaint is true. If he finds that the complaint is not true because he believes that the proofs adduced in support thereof are overcome by the proofs of the defendant, he may dismiss the complaint, not because he has no jurisdiction over the case but because the plaintiff has failed to prove his complaint." [5]

Moreover, the fact that defendants have previously filed a separate action in the same Court of First Instance for the reformation of the deed of absolute sale into one of pacto de retro sale or equitable mortgage, "is not a valid reason to frustrate the summary remedy of ejectment afforded by law to the plaintiff." [6] This move of defendants to reform the aforesaid deed of sale only lends credence to the fact that the ejectment case filed by the plaintiffs against the defendants did not involve question of title, [7] a situation that finally puts an end to the pretensions of the defendants that the issue of ownership is necessarily involved in the unlawful detainer case. Indeed, the unlawful detainer case and the case for reformation of the deed of sale are separate and distinct and can proceed independently of each other. The issue in the action for reformation of the instrument of sale is one of title which is not prejudicial to the issue of summary possession. [8]

Accordingly, the action filed by the plaintiffs with the City Court is one of possession, and therefore falls within the original jurisdiction of said court in accordance with Section 88, par. 1, Republic Act No. 296, as amended, which provides:

"In forcible entry and detainer proceedings, municipal or judge of the city court shall have original jurisdiction, but said municipal or city judge may receive evidence upon the question of title therein, whatever may be the value of the property, solely for the purpose of determining the character and extent of possession and damages for detention. In forcible entry proceedings, he may grant preliminary injunctions, in accordance with the provisions of the Rules of Court, to prevent the defendant from committing further acts of dispossession against the plaintiff." [9]

which was then the law prevailing when the instant case was filed, unlike at present when under Section 3 of Republic Act No. 5967 which further amended Section 88 of Republic Act No. 296, it is only city courts that are granted concurrent jurisdiction with the Courts of First Instance to resolve question of ownership in ejectment cases. [10]

Consequently, it was erroneous for the lower court to dismiss the appeal from the decision of the City Court for it has still the power to review said decision in the exercise of its appellate jurisdiction.

IN VIEW OF ALL THE FOREGOING, the judgment appealed from is hereby reversed and set aside. Case is remanded to the lower court for further proceedings and decision on the merits. No pronouncement as to costs.

SO ORDERED.

Castro (Chairman), Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] pp. 5-6, Primed Record on Appeal.

[2] pp. 17-18, Record on Appeal.

[3] *Mediran vs. Villanueva*, 37 Phil. 752; *Medel vs. Militante*, 41 Phil. 526; *Sevilla vs. Tolentino*, 51 Phil. 333; *Supia and Batioco vs. Quintero and Ayala*, 59 Phil. 312; *Lino vs. Carandang*, G.R. No. L47833, 2 Off Gaz. 302; *Aguilar vs. Cabrera and Flameño*, 74 Phil. 658; *Fabie vs. Gutierrez David*, 75 Phil. 536; *Dela Cruz vs. Hon. Juan Bocar, et al.*, 99 Phil. 491.

[4] 41 Phil. 526, 529.

[5] *Aguilar vs. Cabrera & Flameño*, supra., citing *Lizo vs. Carandang*, supra.

[6] *Aguilar vs. Cabrera & Flameño*, supra.

[7] *Clemente vs. Court of Appeals*, 19 SCRA 74.

[8] *Del Rosario vs. Jimenez*, 8 SCRA 549.

[9] As amended by RA Nos. 2613 and 3X28.

[10] RA 5967, amending Section 88 of Republic Act No. 296, was enacted on June 21, 1969. It provides:

"Sec. 3- Besides the civil cases over which the City Courts have jurisdiction under Section eighty-eight of Republic Act Numbered Two Hundred Ninety-Six as amended, it shall likewise have concurrent jurisdiction with the Court of First Instance over the following:

"(c) in the ejectment case where the question of ownership is brought in issue in the pleadings. The issue of ownership shall therein be resolved in conjunction with the issue of possession."

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