

**CARMEN DEVEZA, DOROTEA CABRERA AND FELINO CABRERA,
PETITIONERS-APPELLANTS, VS. HON. JUAN B. MONTECILLO, AS
JUSTICE OF THE PEACE OF TIAONG, QUEZON AND PATERNO
CHUMACERA, RESPONDE...**

G.R. No. L-23942. March 28, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Challenged in this appeal is the lower court's order dismissing petitioners' mandamus suit to compel respondent Justice of the Peace (now Municipal Judge) to hear and determine their complaint for unlawful detainer which said respondent refused to take cognizance of for lack of court jurisdiction.

The background facts are these:

On February 5, 1960, petitioners lodged with the Justice of the Peace (now Municipal) Court of Tiaong, Quezon, a suit labeled "Unlawful Detainer" against private respondent Paterno Chumacera.[1] The complaint avers that petitioners are owners of a parcel of rice-land situate at San Isidro (Bana), Tiaong, Quezon, with an area of 57,418 square meters, more or less, evidenced by Transfer Certificate of Title 4467 of the Land Records of Quezon Province; that respondent, upon the other hand, is the owner of a piece of land, described in Plan Psu-87360, which adjoins the northwest portion of petitioners' land; that on or about June 16, 1959, in the course of a relocation survey on petitioners' behalf by a duly licensed private surveyor, it was "discovered and definitely established" that Chumacera had been occupying, knowingly or unknowingly, about 3, 000 square meters of the northwest portion of petitioners' land; that petitioners then informed Chumacera of his unlawful possession, asked him to vacate and turn over said portion to petitioners; that Chumacera refused. The prayer of the complaint was for respondent to vacate and turn over pos-session to petitioners and pay them P1,000 a year as reasonable compensation for the use and occupation thereof, plus attorneys' fees, expenses of litigation, and the costs.

On March 3, 1960, respondent Paterno Chumacera moved to dismiss, upon the ground that respondent court had no juris-diction to hear the case. He alleged that he "had been in the peaceful, public, notorious occupation and possession and in the concept of owner, either through himself or through his prede-cessor-in-interests for a period of sixty (60) years, more or less, on the land in dispute and had been paying the corresponding taxes therefor." He also alleged that the land he owned, surveyed in accordance with Plan Psu-87360, was the subject of an application for land registration under LRC Record 574 of the Court of First Instance of Quezon.

On March 21, 1960, respondent Judge Juan B. Montecillo, after hearing the parties on oral arguments on the motion to dis-miss and before trial on the merits, dismissed the case for lack of jurisdiction. He perfunctorily denied the motion for recon-sideration.

On May 5, 1960, petitioners commenced the present petition for mandamus in the Court of First Instance of Quezon,[2] to compel respondent judge to hear and decide, on the merits, the case for the possession of the

disputed land of 3,000 square meters, more or less.

On October 2, 1964, following a pre-trial, the lower court found that respondent judge "acted properly" and, consequently, dismissed the mandamus petition, with costs against petitioners.

Petitioners appealed direct to this Court.

The case calls for the application of Section 1, Rule 70 of the Rules of Court,[3] which in part reads:

"SECTION 1. Who may institute proceedings, and when.- Subject to the provisions of the next succeeding section, a person deprived of the pos-session of any land or building by force, intimidati-on, threat, strategy, or stealth, or a landlord, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such landlord, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper inferior court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. x x x."

Since jurisdiction of courts of limited jurisdiction - and municipal courts are amongst them - is to be interpreted in strictissimi Luria, ours is the duty to examine whether petitioners' case fits into the legal precept just transcribed. It does not.

First. Averment there is none in the complaint that peti-tioners were deprived of possession of the disputed land "by force, intimidation, threat, strategy, or stealth", which would bring their case within the definition of forcible entry.[4] Nor is there an allegation that respondent withholds possession of the land "after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied." In fact, the complaint itself states that Chumacera "has, knowingly or unknowingly, been occupying and in possession of" the controverted portion of land.

There is thus no way of knowing, upon the averments of the complaint, how defendant's (respondent Chumacera's) pos-session started or continued. The complaint, accordingly, does not show facts which would give the municipal court of Tiaong jurisdiction to entertain this case, either as forcible entry or unlawful detainer.

Second. Section 1 of Rule 70 aforesaid specifies a time limit - "within one (1) year after such unlawful deprivation or withholding of possession" - within which an action may be brought in the inferior court. The one-year period is thus to be counted from illegality of possession. If any meaning is to be given to the complaint, it is this: the illegal nature of the possession in question coincided with the start of the possession.

The complaint is conspicuously silent as to the time when defendant entered into or took possession of the land. Plaintiffs contented themselves by stating in their complaint that on or about June 16, 1959, upon a relocation survey, "it was discovered and definitely established that defendant has, knowingly or unknow-ingly, been occupying and in possession of about three thousand (3,000) square meters of the northwestern portion of plaintiffs' afore -said parcel of land."

Implicit in this averment is that defendant's occupancy in possession dates back to a time prior to June 16, 1959. Definitely when, the complaint does not tell us. That possession could well have started more than one year before June 16, 1959, or, for that matter, before the complaint here was filed on February 5, 1960. Or, as private respondent alleged, he and his predecessor were in possession for some 60 years prior to the time the com-plaint was filed. Indeed, respondent Chumacera, on page 11 of his brief, made a categorical statement that in the course of oral arguments, on the motion to dismiss in the justice of the peace court, petitioners made an admission that

said respondent had been in possession for more than one year prior to the institution of the complaint. Such statement is but a repetition of paragraph 11 of respondent's answer to the petition for mandamus in the Court of First Instance of Quezon.[5] This in turn was a substantial reproduction of paragraph 2 of respondent's opposition to petitioners' motion to reconsider the dismissal order of the justice of the peace court.[6] Petitioners did not controvert said averment of fact.

Because jurisdiction hinges on the one year period "after such unlawful deprivation or withholding of possession" and the period of such unlawful deprivation or withholding of possession does not clearly appear on the face of the complaint, and, for the reason that petitioners have admitted that private respondent was in the land for more than one year prior to the time the complaint was lodged in court, this case should be dismissed.

Third. Proceedings under Rule 70 are essentially summary in nature. They are intended to provide an expeditious means of protecting actual possession or right to possession of property.[7]

The present case does not fit into the summary nature of the remedies envisioned in Rule 70. Petitioners and their pre-decessors have held Torrens title to this property - since 1914. Yet, the complaint does not as much as intimate that plaintiffs had ever been in the possession of the disputed property, or that plaintiffs knew of the illegality of defendant's possession but merely tolerated the same. It was only in the relocation survey in 1959 that they allegedly "discovered" that defendant was - knowingly or unknowingly - in possession of an alleged portion of that titled property. Easily to be inferred from the averments of the complaint is that if defendant is in possession of the portion of land in question, it is because he either claims ownership thereof or has been usurping the land for quite sometime. These facts, if anything, underscore the remedy. It certainly is not a summary action to vindicate a wrong - disturbance of possession - of recent origin. Rather, it would seem to us that in the situation here pre-sented, a full-blown inquiry to determine who has the better right to possession or ownership is in order.

A choice of remedies is thus afforded petitioners: either accion publiciana or accion reivindicatoria.[8] Or, should it so happen that the property is included in respondent's Plan Psu-87360, an opposition to the land registration proceeding.

As we recently declared in one case,[9] an inferior court should reject a complaint for forcible entry and detainer "right at the outset", if it is already clear that that court has no jurisdiction thereon.

For the reasons given, the appealed order of the Court of First Instance of Quezon of October 2, 1964 dismissing the petition for mandamus is hereby affirmed.

Costs against petitioners-appellants.

SO ORDERED.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Civil Case 108, Justice of the Peace (now Municipal) Court of Tiaong, Quezon, entitled "Carmen Deveza, Dorotea Cabrera and Felin Cabrera, Plaintiffs, versus Paterno Chumacera, Defendant."

[2] Civil Case 6315, Court of First Instance of Quezon (Lucena City), entitled "Carmen Deveza, Dorotea Cabrera, and Felino Cabrera, Petitioners, versus Hon. Juan B. Montecillo, as Justice of the Peace of Tiaong, Quezon, and Paterno Chumacera, Respondents."

[3] Section 1, Rule 72 of the old Rules of Court.

[4] Tenorio vs. Gomba, 81 Phil. 54, 57; Dikit vs. Ycasiano, 89 Phil. 44, 48-49.

[5] Record below, p. 13.

[6] Record below, p. 72.

[7] Martin, Rules of Court in the Philippines, 1964 ed., p. 604.

[8] Bishop of Cebu vs. Mangaron, 6 Phil. 286, 291; Masallo vs. Cesar, 39 Phil. 134, 136-138.

[9] Abbain vs. Chua, L-24241, February 26, 1968.

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